

**VICTIMS WHO DO NOT COOPERATE WITH LAW ENFORCEMENT IN DOMESTIC
VIOLENCE INCIDENTS**

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This dissertation examined extralegal factors that predicted the likelihood of victim non-cooperation in domestic violence incidents and whether the type of arrest policy influenced the odds of non-cooperation when the nature of the victim/offender relationship and the type of domestic assault were considered. National Incident Based Reporting System data (2003) was used to investigate whether there was evidence contained in the incident level data routinely reported by law enforcement that would reliably predict whether a victim would be unwilling to cooperate with police in an incident of domestic violence. The multivariate analyses used incident characteristics as predictors of victim non-cooperation with the police at the scene, including offender demographics, number of offenders, presence of a weapon, incident location, number of victims, victim demographics, victim injury, victim's relationship to the offender, and incident clearance method. The victim's domestic relationship to the offender was characterized as a family relationship (related by blood or marriage) or an intimate relationship. Logistic regression was employed to determine whether there was evidence contained in the data that would reliably predict that a victim would be unwilling to cooperate with law enforcement and whether that evidence was influenced by the restrictiveness of the domestic violence arrest policy. The major finding of this study was that the victim's relationship to the offender played a central role in determining the likelihood of non-cooperation. The odds of a victim not cooperating with police increased significantly if the victim was an intimate partner versus a family member; these

odds increased with the restrictiveness of the arrest policy. For incidents involving domestic violence, states typically use civil code to define the victim's relationship to the offender and criminal code to define the offense. The current trend among states' amending constitutions in order to define legally recognized civil relationships could affect whether or not domestic violence laws will apply to unmarried individuals in intimate relationships. Changes resulting in the legal exclusion of intimate victims from the protections of domestic violence legislation in a state may affect victim decision making, perhaps reducing the number of such incidents that come to the attention of law enforcement.

TABLE OF CONTENTS

PREFACE.....	XIV
1.0 INTRODUCTION.....	1
1.1 DOMESTIC VIOLENCE AND THE CRIMINAL JUSTICE SYSTEM.....	1
1.2 STATEMENT OF THE PROBLEM.....	6
1.2.1 Victim reluctance to cooperate	8
1.2.2 Police discretion.	11
1.3 PURPOSE AND OBJECTIVES OF THE STUDY	14
2.0 BACKGROUND	16
2.1 PRIVATE VERSUS PUBLIC	16
2.2 PRIVATE	16
2.2.1 The Private Sphere	17
2.2.1.1 Women in the Private Sphere.....	17
2.2.1.2 Children in the Private Sphere.....	23
2.3 PUBLIC SPHERE	26
2.3.1 Women in the Public Sphere.....	26
2.3.2 Children in the Public Sphere.....	31
2.4 LEGAL IMPLICATIONS OF LANGUAGE	34
2.4.1 Private Sphere	34

2.4.2	Public Sphere.....	35
3.0	THEORETICAL PERSPECTIVES.....	37
3.1	FAMILY VIOLENCE PERSPECTIVE.....	37
3.2	FEMINIST PERSPECTIVE.....	46
3.3	DEVELOPMENT OF ARREST POLICIES	53
3.4	REVIEW OF THE EVIDENCE.....	54
3.4.1	The influence of the victim's relationship to the perpetrator	57
3.4.2	Incident characteristics	62
3.4.3	The influence of arrest policy.....	72
4.0	ARREST POLICIES	73
4.1.1	Mandatory Arrest Policies	77
4.1.2	Preferred Arrest Policies.....	80
4.1.3	Discretionary Arrest Policies	81
5.0	METHODS	84
5.1	DESCRIPTIVES.....	84
5.2	THE STUDY	89
5.3	THE DATA.....	90
5.4	ANALYSIS	94
5.4.1	Dependent Variable	94
5.4.2	Independent Variables.....	95
5.4.3	Contextual Variables	97
5.5	ANALYSIS STRATEGY	98
6.0	ANALYSIS	101

6.1	DATA SCREENING	101
6.2	OVERALL.....	102
6.2.1	Descriptives.....	102
6.2.2	Logistic Regression	104
6.3	DISCRETIONARY ARREST POLICIES	109
6.3.1	Descriptives.....	109
6.3.2	Logistic Regression	113
6.4	PREFERRED ARREST POLICIES.....	119
6.4.1	Descriptives.....	119
6.4.2	Logistic Regression	124
6.5	MANDATORY ARREST POLICIES	130
6.5.1	Descriptives.....	130
6.5.2	Logistic Regression	136
6.6	SUMMARY OF RESULTS	143
6.6.1	Extralegal factors	144
6.6.2	Controlling for arrest policy	148
6.6.2.1	Family victims	152
6.6.2.2	Intimate victims	155
7.0	IMPLICATIONS AND SUGGESTIONS FOR FURTHER RESEARCH.....	159
7.1	THEORETICAL IMPLICATIONS	160
7.2	POLICY IMPLICATIONS.....	162
7.2.1	Defense of Marriage Act.....	164
7.2.1.1	The Ohio Example	166

7.2.2	Potential for Unintended Consequences	168
7.3	FUTURE RESEARCH.....	172
APPENDIX A.....		175
APPENDIX B		179
BIBLIOGRAPHY		180

LIST OF TABLES

Table 1	Domestic Violence Arrest Policies	76
Table 2	Mandatory Arrest Policies	77
Table 3	Preferred Arrest Policies	80
Table 4	Discretionary Arrest Policies	81
Table 5	Assault Clearance Methods by Type of Victim.....	102
Table 6	Assault Clearance Methods by Victim Type and Type of Assault.....	103
Table 7	Logistic Regression to Predict the Non-cooperation of All Domestic Assault Victims All Policies.....	105
Table 8	Logistic Regression to Predict the Non-cooperation of All Family Domestic Assault Victims - All Policies.....	107
Table 9	Logistic Regression to Predict the Non-cooperation of All Intimate Domestic Assault Victims - All Policies.....	108
Table 10	Assault Clearance Methods by Type of Victim - Discretionary Arrest Policies	109
Table 11	Victims that Refused to Cooperate in Assault Incidents Not Cleared by Arrest - Discretionary Arrest Policies	110
Table 12	Assault Clearance Methods by Victim Type and Type of Assault - Discretionary Arrest Policies.....	111

Table 13	Logistic Regression to Predict the Non-cooperation of All Domestic Assault Victims - Discretionary Policies	114
Table 14	State Logistic Regressions - Discretionary Arrest Policies	116
Table 15	Logistic Regression to Predict the Non-cooperation of Family Domestic Assault Victims - Discretionary Arrest Policies	117
Table 16	Logistic Regression to Predict the Non-cooperation of Intimate Domestic Assault Victims - Discretionary Arrest Policies	118
Table 17	Assault Clearance Methods by Type of Victim - Preferred Arrest Policies	120
Table 18	Victims that Refused to Cooperate in Assault Incidents Not Cleared by Arrest - Preferred Arrest Policies	121
Table 19	Assault Clearance Methods by Victim Type and Type of Assault - Preferred Arrest Policies	123
Table 20	Logistic Regression to Predict the Non-cooperation of All Domestic Assault Victims - Preferred Arrest Policies	125
Table 21	State Logistic Regressions - Preferred Arrest Policies	127
Table 22	Logistic Regression to Predict the Non-cooperation of Family Domestic Assault Victims - Preferred Arrest Policies	128
Table 23	Logistic Regression to Predict the Non-cooperation of Intimate Domestic Assault Victims - Preferred Arrest Policies	129
Table 24	Assault Clearance Methods by Type of Victim - Mandatory Arrest Policies	131
Table 25	Victims that Refused to Cooperate in Assault Incidents Not Cleared by Arrest - Mandatory Arrest Policies	133
Table 26	Assault Clearance Methods by Type of Assault - Mandatory Arrest Policies	135

Table 27	Logistic Regression to Predict the Non-cooperation of All Domestic Assault Victims - Mandatory Arrest Policies	137
Table 28	State Logistic Regressions - Mandatory Arrest Policies	139
Table 29	Logistic Regression to Predict the Non-cooperation of Family Domestic Assault Victims - Mandatory Arrest Policies	141
Table 30	Logistic Regression to Predict the Non-cooperation of Intimate Domestic Assault Victims - Mandatory Arrest Policies	142
Table 31	Results of Logistic Regression To Predict Non-cooperation by Type of Victim.....	144
Table 32	Results of Logistic Regression To Predict Non-cooperation by Type of Arrest Policy	149
Table 33	Results of Logistic Regression To Predict Non-cooperation by Type of Arrest Policy - Family Victims	153
Table 34	Results of Logistic Regression To Predict Non-cooperation by Type of Arrest Policy - Intimate Victims	157
Table 35	Domestic Assaults by Type of Incident and Victim Type.....	164

LIST OF FIGURES

Figure 1	Age Profiles of Assault Victims	85
Figure 2	Age and Sex Profiles of Sexual Assault Victims	86
Figure 3	Age and Sex Profiles of Aggravated Assault Victims.....	87
Figure 4	Age and Sex Profiles of Simple Assault Victims	88

PREFACE

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1.0 INTRODUCTION

1.1 DOMESTIC VIOLENCE AND THE CRIMINAL JUSTICE SYSTEM

Over the last thirty years, domestic violence has become an increasingly visible and important social issue. Public awareness began to develop in the 1960s when child abuse was identified as a major problem. Until the 1970s domestic violence was rarely acknowledged as a social problem. There were no shelters, hotlines or laws specific to battering. But with new laws, shelters, organizations, services, and research focused on domestic violence, it has emerged as a major social problem that is now handled through the criminal justice system. This shift in focus has created new dilemmas and problems (Ferraro, 1989). Among them is the gap between legislation and how law enforcement responds to domestic violence incidents (Buzawa & Buzawa, 2003).

In the late 1970's, states began to enact laws providing for civil court orders of protection from domestic violence. Changes began to occur, although slowly, in the administration of justice beginning with police recognition that domestic violence was a significant problem (Miller, 2005). By 1980, domestic violence legislation had been passed by 47 states mandating changes in protection orders, allowing warrantless arrest for misdemeanor domestic assaults, and recognizing a history of abuse as part of a battered woman's legal defense for killing her husband (Fagan, 1996).

In an attempt to make arrest and prosecution of domestic abusers easier, states passed new arrest policies including mandatory arrest, "pro-arrest", and "preferred" arrest laws (Bachman & Saltzman, 1995; Sherman, Smith, Schmidt, & Rogan, 1992). Advances in criminal law relating to domestic violence can be seen in the adoption of antistalking laws in 50 states where there were none in 1989, the repeal or limitation of states' spousal exception laws in rape cases, and passage of new family battery laws that provide unique penalties in family-related assault and battery cases. Additionally, hundreds of legal sanctions were either enacted or changed between 1997 and 2002 and some states created a new crime of domestic violence (Miller, 2004). Statutory revisions included increasing the relationships covered by the domestic violence statutes (Buzawa & Buzawa, 2003). Virtually all states now have statutes that require an aggressive police response to parents, children, siblings, other family members (such as cousins, grandparents), and intimate partners, including current and former spouses, current boy/girlfriends, and homosexual relationships (Buzawa & Hotaling, 2006).

One of the key concerns among researchers and theorists today is whether or not these laws have had an impact on domestic violence incidents and what role law enforcement responses play in the outcomes of domestic violence incidents. In addressing the problem of domestic violence, the focus has been on the application of legal sanctions through arrest and prosecution of assailants or the threat of legal sanctions through civil legal remedies, such as protection orders, that carry criminal penalties if violated (Fagan, 1996).

Domestic violence arrest policies can be classified into three general categories; mandatory, preferred, or discretionary. In 21 states and the District of Columbia police arrest is required (mandatory) when the officer determines that probable cause exists. In 8 states, an arrest for domestic violence is the preferred action. Discretionary domestic violence arrest

policies exist in the remaining 21 states. States that employ discretionary arrest policies allow police officers to make a misdemeanor arrest without a warrant based on a police officer's determination that probable cause exists to believe that an act of domestic violence has occurred (police discretion); legislation in some of these states require an arrest without a warrant if the victim has an order of protection on file (Miller, 2004).

The increased legislative attention to the problem of domestic violence has resulted in a wide variety of statutory arrest models among the states. Some laws, such as permitting warrantless arrests in misdemeanor domestic violence cases, serve to make arrest and prosecution of abusers easier (Miller, 1998). Others supplement the protections provided by the new arrest laws by integrating civil protective laws with criminal laws to protect abused spouses and other family members. For example, in almost all states, violation of a court order of protection is a crime; in some states the violation is a felony, in others a misdemeanor. Police officers are authorized to arrest protection order violators without a warrant, based on a determination of probable cause (Miller, 2004).

From a legal perspective, the definition of domestic violence involves both the offense and the offender. Typically, the offenses that are considered to be domestic violence are specified in a state's penal code, and the criminal laws rely on the definition of domestic relationship that is used in the states' civil law codes (Miller, 2005).

In short, two types of policy reforms have characterized criminal justice responses to family violence. One type is aimed at procedures and jurisprudential issues to increase the participation of battered women in the criminal justice process and to simplify the procedure. The other type of reform targeted specific measures to stop the violence by legally sanctioning the offenders. The theory underlying these reforms, deterrence theory, was that domestic

violence could be stopped through legal sanctions and that these legal sanctions would be effective in reducing the incidence of violent acts. Reflective of the interdependency of legal institutions (police and courts), the interventions to control domestic violence reflect different policy goals and separate but parallel tracks: criminal punishment and deterrence of batterers, and protective interventions designed to insure victims' safety and empowerment (Fagan, 1996).

It is well known that police practice often deviates from legal standards and that there is a gap between the law on the books and the law in action (Hoyle, 1998). There is not much congruence between mandatory arrest laws for domestic assault and police enforcement of those laws (Buzawa & Buzawa, 2003). Despite the prominent existence of mandatory and proarrest policies among the states, law enforcement continues to fail to make an arrest in the majority of domestic violence cases. Although the likelihood of arrest has been found to be higher in jurisdictions that have employed a mandatory arrest policy (versus those who have employed less restrictive domestic violence arrest policies), a recent study found the average arrest risk to be only about 50%, lending credence to claims that there continues to be considerable police discretion regarding the decision to arrest in these cases (Eitle, 2005).

It is widely accepted that police base their decisions on situational characteristics of an incident (Buzawa & Buzawa, 2003). One of those decisions is how to resolve, or clear, a reported crime. An incident can be cleared by arrest or by exceptional means. Exceptional means, such as death of the offender or unwillingness of the victim to cooperate, is used when police determine that an element beyond law enforcement control prevents the filing of formal charges against the offender. The lack of victim cooperation at the incident scene can result in police clearing the incident using an exceptional means code.

Despite the importance of cooperation of victims, there is little to no discussion of the role played by the victim's cooperation or lack of cooperation with the police (Hoyle, 1998). If the victim is uncooperative at the arrest level, the victim's reluctance to co-operate, for whatever reason, will probably result in the police not pursuing the case. When this happens, it is unlikely that the rest of the criminal justice system will ever have any opportunity to play any a role in the case creating incidents that are hidden whose victims become "invisible".

The dynamics of domestic violence situations are complex. Any combination of factors may influence a victim of domestic abuse and render that victim unwilling to cooperate with the police as they investigate an incident of domestic assault. As gatekeepers of the criminal justice system, police implement and interpret the law and decide whether or not an incident becomes part of the official record. Thus, police discretion determines who enters into criminal proceedings as either the alleged criminal or the complainant (Sparks, 1997).

Thus, the initial impact of police discretion cannot be separated from the impact of other justice system components such as prosecutors, courts, prison, probation, and parole (Sparks, 1997). Once an incident is cleared using exceptional means, the door to the rest of the criminal justice system is closed with regard to this incident. While we know that an exceptional clearance ends the justice system involvement with the incident, we do not know how frequently this occurs. The combination of victim non-cooperation and police discretion may serve to diminish the intended effect that arrest legislation might have on addressing the problem of domestic violence.

1.2

STATEMENT OF THE PROBLEM

Very generally, domestic violence is defined as a pattern of coercive behavior by a spouse or intimate partner to gain power and control. The problem is exceptionally serious for women, the majority of the victims in incidents of domestic violence. In contrast to other forms of violence, domestic violence is often a recurring event between individuals in daily contact, usually without the visibility to others that would be available in public spaces. In this context, threats can be readily conveyed and quite believable, while making it very difficult to use legal sanctions to create a deterrent threat within a context of ongoing and unsupervised contact between the victim and the perpetrator (Fagan, 1996).

As reforms have been enacted and new aggressive arrest policies enforced, offenders began to be held accountable for behavior that had previously been ignored. Reforms targeted at improving responsiveness to victims simultaneously reduced the degree of process that had been previously accorded to suspects at a crime scene (Buzawa & Buzawa, 2003). Even so, domestic violence continues to be a serious problem in the United States.

The risk of domestic violence victimization is much higher for women than men. Estimates from national victimization surveys, which use nationally representative samples to estimate the prevalence of domestic violence, provide insight regarding the gender distribution of victims. According to the Bureau of Justice Statistics (BJS) National Crime Victimization Survey (NCVS), women reported six times as many incidents of violence as men (Bachman & Saltzman, 1995) and 85 percent of 1 million violent crimes that were committed against intimate partners involved women as victims (Rennison & Welchans, 2000). Additionally, 22 percent of all female victims of violence were attacked by an intimate partner, compared to 3 percent of male victims (Rennison & Welchans, 2000). NCVS estimates indicate that while domestic

violence exists in all racial, ethnic, and economic groups, it is more prevalent in low-income and urban households. Domestic violence is most commonly used against women ages 20 through 24, but women ages 35 through 49 are most vulnerable to being murdered by an intimate partner (Rennison, 2002).

Estimates from the National Violence Against Women Survey (NVAW) reveal that men's use of physical assault was 3 times the rate of women's and that 1.8 million women are victimized by intimate partners each year compared to 1 million men (Tjaden & Theonnes, 2000). Additionally, the consequences for female victims are more serious than for male victims. Almost one-third (29 percent) of all female homicide victims in 1997 were killed by an intimate partner, a rate that remained relatively constant between 1976 and 1997 (Owens-Manley, 1999), compared to 6 percent of all male homicides (Rennison & Welchans, 2000).

Victim preference for arrest has been credited for the largest variances in arrest rates (Berk & Loeske, 1980; Buzawa & Buzawa, 1996; Feder, 1996; Smith & Klein, 1984; Worden & Pollitz, 1984). "In all but mandatory arrest jurisdictions, an informal operational requirement for a domestic assault arrest is the victim's desire for the arrest" (Buzawa & Buzawa, 2003, p.148). In fact, in the past, most jurisdictions had policies that discouraged arrest without victim concurrence (Bell 1984).

Research on victim cooperation has largely been measured by victim preference for arrest (Buzawa & Buzawa, 2003). In this context, victim "cooperation" at the scene influences arrest decisions (Berk & Loeske, 1980; Buzawa & Austin, 1993; Smith, 1987). Police officers know that without a victim's cooperation, the case is likely to be dismissed or the perpetrator acquitted for lack of evidence (Buzawa & Buzawa, 2003).

1.2.1 Victim reluctance to cooperate

Victims of domestic violence may have personal interests that conflict with the interests of the criminal justice system. Victims of domestic violence have emotional ties to their perpetrators, which may lead them toward rational objectives when invoking legal sanctions. Victims of domestic violence may more be more concerned with using legal institutions to guarantee their own safety, surviving economically, protecting their children, or getting counseling help for their assailants than with deterrence or punishing their assailant (Ford, 1991). If victim choices about invoking legal sanctions are associated less with punishment and deterrence and more with seeking to use the law for other goals, the social control functions of the law are compromised even though victim needs are being met (Fagan, 1996). Thus, there are many reasons why victims of domestic violence may decide that the costs and risks of cooperating with police outweigh the potential consequences for their assailants or benefits for themselves (Hart, 2005).

In incidents involving domestic violence, victims are faced with a dynamic situation that seems unpredictable, uncontrollable and that may present a threat to their safety and/or the safety of family members. A situation like this requires the victim to operate in a continual process of assessment of risk, evaluation of actions, and reassessment of the situation. This evaluation process involves a sequence of decisions made quickly and under conditions of uncertainty and stress. Decision processes in uncertain situations, such as incidents of domestic violence, differ significantly from those used in routine day-to-day activities.

Studies of decision making that have focused on the reasoning processes of individuals lend insight to the dynamics of these decision processes (Weick, 1993). The process is driven both by the context of the uncertainty and by the limits of human information processing

capacity (Simon, 1996). The victim of domestic violence is engaged in making sense of the situation from his/her point of view. Knowing the circumstances that led up to the incident, the victim is making decisions about what actions to take in the interest of both present and future personal safety (and perhaps that of family members) while interpreting physical and verbal cues from other actors involved in the situation. This becomes an ongoing process of decision-making based on the victim's knowledge of the factors surrounding the immediate incident, the factors experienced in past incidents, and the victim's perception of what could occur both immediately and in the future. When a victim experiences injury or perceives a threat of injury in the future, that victim may decide that the costs of certain actions outweigh the benefits of these actions.

The sensemaking process involves the understanding of many different and interdependent factors that must be integrated with the specifics and timing of the circumstances surrounding the problem (Weick, 1995). In situations involving domestic violence, levels of knowledge and experience with these situations vary greatly among victims as well as police officers. Limited timeframes and the volatility of these incidents lead to high-pressure situations in which sensemaking processes must be employed before victim decision making occurs. For the victim, decision-making becomes the skill of selecting among alternatives based on evaluations that determine how much more sense one option makes than another in the situation.

A belief that is espoused may or may not be reflected in a person's behavior in a particular situation (Argyris & Schon, 1996). This concept is especially important when considering that a large part of the complexity involved with the victim's decision-making environment is the intimate relationship between the victim and the perpetrator. The victim's

decision as to whether or not to cooperate with police may actually appear to serve to protect the assailant rather than their own safety and/or the safety and welfare of other family members.

Further defining the context in which a victim of domestic violence must operate in sense making and decision making is the policy environment, specifically the domestic violence policy protocols that are applied by law enforcement and the justice system in the jurisdiction in which the incident takes place. A victim in a domestic violence incident is facing a complex and uncertain situation, is continuously optimizing; the victim becomes a "satisficer" making choices that are "good enough" because the best choice in the situation is unknowable (Simon, 1996). While victims of domestic violence face uncertainty about their future and that of their family, they must decide what the costs will be associated with cooperating with police, further limiting their ability to make a fully rational decision.

In incidents involving domestic violence, the victims have only "bounded rationality"; they are forced to make decisions by setting an aspiration level that they feel they are able to achieve and that they will be happy enough with in their "bounded" and uncertain real world (Simon 1996). In making a decision as to whether or not to cooperate with law enforcement, the victim is weighing a number of factors including safety, situational barriers, demographics, possible future involvement with the justice system, and police discretion.

Victims of domestic violence fear retaliation, and rightfully so. Although not all batterers engage in escalated violence between the time of arrest and prosecution proceedings, as many as half threaten retaliatory violence (Davis et al., 1990) and nearly one third of batterers may inflict additional assaults during the pre-disposition phase of prosecution (Hart, 2005). Victims of domestic violence may be at a higher risk of violent assault after intervention by the criminal

justice system (Hart, 2005). Battered women are most often killed when they attempt to seek legal remedies or to leave an abusive partner (Browne, 1987).

Many victims of domestic violence need protection in order to remain safe during their participation with the criminal justice system. Battered victims may be much more concerned about preventing future violence than in punishing their assailant for the crimes previously committed. The victim's concern about future safety may create conflict with the criminal justice system interests of winning criminal convictions. Some of these victims may feel that exposing their perpetrator to the criminal justice system and its coercive controls will facilitate, rather than deter, future violence (Hart, 2005).

1.2.2 Police discretion.

In the United States, law enforcement is part of an incident-driven criminal justice system, responding uniformly to incidents of domestic violence without examining the motivations and consequences of such acts. Police intervention in cases of domestic violence requires a designation of a specific unit of time, an incident. The “incident” is abstracted from the context, the history of the relationship of the victim and the offender. Consequently, when police respond to an incident of domestic violence, any pattern of escalating violence is not considered relevant (Miller S., 2005).

Arrest is only one of the options available to police when responding to these incidents. Police also have the ability to clear an incident by exceptional means indicating that there is some reason outside law enforcement control that prevents arresting, charging, and prosecuting the offender. In order to clear an incident by exceptional means, all of the following conditions must be met:

- The investigation must have established the identity of the offender,

- There must be sufficient information to support an arrest, charge, and turning over to the court for prosecution, and
- The exact location of the offender known so that the subject could be taken into custody immediately.

As street-level bureaucrats, law enforcement officers are public workers who interact directly with citizens in implementing and delivering public policies. Although most of these officers probably regard their work as a technical job far from the political arena, they are important actors in the policy implementation process. Law enforcement officers, as street-level bureaucrats, often have substantial discretion in performing their duties. Victims perceive the way law enforcement officers enforce regulations to be the law. The discretion that law enforcement officers have in enforcing the law creates a version of the public policy that, in practice, may misrepresent its original intended goals. In this way, the policy-making process is inverted and street-level bureaucrats such as law enforcement officers become important policy-makers (Lipsey, 1980).

There is some controversy surrounding the implementation of aggressive arrest policies, that is, legally requiring police to arrest in incidents of domestic violence. Although there have been major administrative pressures to increase the role of arrest in incidents involving domestic violence, for the most part arrest is not routine when officers respond to a domestic call (Buzawa & Buzawa, 2003).

Some want to hold law enforcement accountable for executing the government's mandate to protect citizens. However, even though police have a clear mandate to enforce the law, as agents of social control, they possess considerable autonomy in how they exercise their power (Sparks, 1997). Police can make a variety of decisions in cases of domestic violence. They can

choose whether to “act” or “not to act” when responding to an incident, resulting in the difference between making an arrest and not making an arrest.

Some argue that police decisions regarding arrest are largely due to an overwhelming police bias against arrest (Bayley 1986; Buzawa & Buzawa, 2003), while others assert that victim unreliability due to withdrawal of statements is a myth promoted by police to make excuses for this bias (Faragher 1985). It has also been argued that police are more willing to arrest perpetrators who have committed crimes against more influential victims; parties to any domestic dispute, particularly female victims, are by definition non-influential (McConville, Sanders, & Leng, 1991). There are also those who claim that police show special leniency toward male suspects in domestic assaults (Buzawa et.al., 1995; Dobash & Dobash, 1979). It is argued that this approach serves to perpetuate the problem of domestic assault. Donald Black (1976) proposed that the degree of intimacy affects the "quantity of law". The greater the relational distance (the less intimacy) between adversaries, the more likely the police are to make an arrest in the incident; police are most likely to make an arrest in a violent incident that involves strangers and least likely to arrest suspects in family disputes.

From the police perspective, it is important to consider the investment that police make in their arrests (Sparks, 1997). One of the factors cited as contributing to police reluctance in making an arrest in incidents involving male violence against female partners is the belief that arrests in domestic incidents fail to result in successful prosecutions (Buzawa & Austin, 1993; Ferraro, 1989; Sparks, 1997). If the victim is unwilling to initiate a complaint, police may use exceptional means to clear the incident regardless of the seriousness of the attack because, without the victim's cooperation, there is little chance of a successful prosecution (Buzawa & Austin, 1993).

Police also want to make "good" arrests; good arrests are those that result in felony convictions. Because domestic assault is usually charged as a misdemeanor, the arrest does not have the same prestige in the police subculture ((Buzawa & Austin, 1993)).

1.3 PURPOSE AND OBJECTIVES OF THE STUDY

While research into the issue of domestic violence, and violence against women in particular, has been voluminous, there has been little research looking at the effects of police discretion and/or victim non-cooperation (Hoyle, 1998). Furthermore, legislative efforts to limit police discretion in incidents involving domestic violence may not ensure a standardized response; officer discretion may be redirected in order to circumvent requirements (Manning, 1997). At the same time, many victims of domestic violence are fearful of future retaliatory violence targeted at themselves or members of their family if they do cooperate with police in the arrest of their perpetrator.

The incident characteristics of domestic violence incidents cleared using exceptional means due to the unwillingness of the victim to cooperate with police may differ from those not resolved in this manner. This study aims to identify whether certain extralegal factors predict the likelihood of victim noncooperation in incidents involving domestic violence and, controlling for each general type of domestic assault arrest policy (mandatory, preferred, discretionary), the extralegal factors that predict the likelihood of victim noncooperation in incidents involving domestic violence. In particular, this dissertation sets forth the following specific research questions:

Before and after controlling for the for the dominant domestic violence arrest policy:

1. How does a victim's relationship to the offender, intimate versus family, affect the odds of an incident of domestic violence being cleared due to victim noncooperation?
2. How does the seriousness of the incident affect the odds of an incident of domestic violence being cleared due to victim noncooperation and do these odds vary when controlling for victim/offender relationship?
3. How does the vulnerability of the victim affect the odds of an incident of domestic violence being cleared due to victim noncooperation and how does the victim/offender relationship affect these odds?
4. How does the characterization of the incident being a sexual assault affect the odds of an incident of domestic violence being cleared due to victim noncooperation and do these odds vary when controlling for victim/offender relationship?

This dissertation is organized as follows. In Chapter 2, I discuss the emergence of naming domestic violence as a serious social problem in the United States, dividing the issue into public matters versus private matters in order to explain how women and children's relegation to the private sphere of the home resulted in their legal and social subordination, thus putting them at a higher risk of being victims of domestic violence. In Chapter 3, I present the two major theoretical perspectives on domestic violence, the family violence perspective and the feminist perspective, and their contributions to our current understanding of the issue. In Chapter 4, I describe how domestic violence is defined in terms of state policy and how the domestic violence arrest statutes might influence arrest outcomes in incidents involving domestic violence. In Chapter 5, I delineate the scope of the research, and describe the data set and how these data will be used to answer the research questions. In Chapter 6, I discuss the results of both descriptive analyses of the data, and of the logistic regressions. In the final chapter, I apply the results of this study in my discussion of the theoretical and practical policy implications.

2.0 BACKGROUND

2.1 PRIVATE VERSUS PUBLIC

In order to understand domestic violence as a social issue, it is important to place its emergence of being defined as a social problem in a historical context. Violence in the home is not new. Spouse abuse, wife abuse in particular, has always existed and many of the Christian leaders of the European settlers of colonial America sanctioned wife beating; English Common Law accepted it (Felter, 1997). In patriarchal societies, males had the right to control their wives and children; in most societies the patriarch of a family had the right to use force against the women and children under his control (Buzawa & Buzawa, 2003). A major shift in ideology has moved us from the belief that a man has a God given right to control his woman and his family to a belief that domestic violence and intimate partner abuse are criminal acts.

2.2 PRIVATE

The family has historically been viewed as a private unit, and the state did not have the right (nor the desire) to interfere in family affairs. This veil of privacy was accompanied by the reality that we had existed for centuries as a patriarchal society promoting a tolerance for violence perpetuated by men. (Kurst-Swanger & Petcosky, 2003). Violence was viewed as a necessity for

maintaining social order. Family violence was not only accepted but was maintained within a male-dominated hierarchy of power with the understanding that “outsiders” were not to become involved (Felter, 1997).

2.2.1 The Private Sphere

"It is possible, reading standard histories, to forget half the population of the country. The explorers were men, the landholders and merchants men, the political leaders men, the military figures men. The very invisibility of women, the overlooking of women, is a sign of their submerged status." (Zinn, 2003, pg. 103).

2.2.1.1 Women in the Private Sphere

Evidence of efforts in this country to cope with violence against women and children can be seen as far back as the 1600's in the Puritan policies. The Puritans believed that some level of violence was necessary to ensure that men could meet their responsibility of maintaining family discipline. The Puritans specified restrictions on its use and created boundaries for what was considered to be appropriate in the eyes of God. Ministers usually resolved allegations of domestic abuse and there is little documentation that men were punished for these violations (Felter, 1997; Pleck, 1979; Kurst-Swanger & Petcosky, 2003). During this time period, the fear of witchcraft gave men a great deal of social power; they could easily explain their use of violence as a means that was necessary to combat the practice of witchcraft. By 1700, the enforcement of Puritan policies regarding domestic abuse had essentially ceased (Kurst-Swanger & Petcosky, 2003). Use of force within the family was considered a private matter that produced such policies as the ruling known as William Blackstone's "rule of thumb". In his interpretation

of English law, Sir William Blackstone defined the power of authority given to husbands in legal, rather than moral, terms (Browne, 1987). Since the husband was viewed as responsible for his wife's misbehavior, the law found it reasonable to give him the authority to chastise his wife just as he would be allowed to discipline his apprentices or children. The chastisement was to be administered within reasonable limits; a husband could beat his wife with a rod no thicker than his thumb. In the early colonies of the United States, the husband was allowed to give his wife "lawful and reasonable" chastisement, so long as he did not inflict permanent injury or death (Spruill, 1972; Zinn, 2003).

The idea of the unity of husband and wife was a fundamental principal of the law in the colonies. Single women were legally considered to be competent persons. They could be sued, bring suit, make contacts, execute deeds, dispose of estates through a last will and testament, and serve as guardians for minors. However, when a woman married, her legal existence was incorporated into that of her husband and he was recognized as her head or lord; she could have no will or property of her own. The husband had absolute possession of his wife's property and any wages that she earned (Berkin, 1996; Spruill, 1972; Zinn, 2003).

English law also gave the father the authority over his children, even after his death. According to Blackstone's interpretation, a mother had no legal right over her children; she was only entitled to reverence and respect. A man could deal with the custody of his children, both living and unborn, through a will or a deed. In the United States, the colonies passed statutes insuring fathers these same rights. Colonial fathers regularly used their last wills and testaments to direct the estates of their children. In most cases the children's custody was assigned to their mothers. Sometimes the husband appointed his wife guardian of the children as long as she

remained a widow and named other guardians for the children if she married again. The wills were written as if the children were his property (Spruill, 1972).

The practice of appointing a guardian other than the mother was used to protect a child and his estate from a potential immoral stepfather. Under the law, a wife and all of her possessions were subject to her husband's authority. A husband acquired by marriage any interest that his wife had in the estate of her deceased husband. Therefore, if she remarried, would have no authority to protect the interests of her children, whether they be person or property interests. If another guardian was appointed, that person could pursue legal action against the stepfather's "waste of the orphan's estate" or mistreatment. But the mother, having remarried, was disqualified from suing her husband or testifying against him in a court of law (Spruill, 1972).

The colonies' rules regarding women's inheritance and property ownership also followed the general characteristics of English law. There was a preference for sons over daughters in the distribution of estates (Berkin, 1996; Spruill, 1972) and that preference was so strong that land would be left to brothers or nephews rather than daughters (Spruill, 1972).

Many times the husband bequeathed a portion of his estate to his wife, sometimes with the condition that she not remarry. The husband usually had acquired a portion of the property disposed of in his will through marriage. So, in some cases a wife was given property that was formerly hers on the condition that she not remarry. In other cases, wives received only part of what had originally been theirs at the time of the marriage. Upon the death of a wife, the husband had the sole right to administer her estate; wives could not by will appoint anyone else as executor and the court did not have the power to interfere with the husband's administration of the estate (Spruill, 1972).

In March 1776, prior to the Declaration of Independence, Abigail Adams wrote to her husband asking him to be more “generous” to women and not to place unlimited power in the hands of husbands. She wrote “Remember, all men would be tyrants if they could.” However, Jefferson emphasized, “all men are created equal” and stated that American women would be “too wise to wrinkle their foreheads with politics.” After the Revolution, only New Jersey’s new state constitution granted women the right to vote and that right was rescinded in 1807; New York’s constitution purposely disenfranchised women by using the word “male” in its constitution (Spruill, 1972; Zinn, 2003). Women in the United States did not gain the right to vote until 1920, one hundred and forty-three years after the Declaration of Independence was signed.

Between the time of the American Revolution and the Civil War, changes in American society were both numerous and complex. The economy was expanding, the population was growing and moving west. While women were being pulled out of the house and into industrial life, there was also pressure for them to stay home where they were more easily controlled. “The outside world, breaking into the solid cubicle of the home, created fears and tensions in the dominant male world, and brought forth ideological controls to replace the loosening family controls: the idea of ‘the woman’s place,’ promulgated by men, was accepted by many women.” (Zinn, 2003)

As the economy developed, men dominated the workplace as mechanics and tradesmen; aggressiveness became increasingly defined as a male trait more and more. A new set of ideas began to be taught in churches, in schools and in families; the woman was expected to be pious, sexually pure, and obedient, and her job was to keep the home happy, to maintain religion, to be a nurse, cook, seamstress and flower arranger (Spruill, 1972). Women were told (and taught) to

be passive. A woman was not to read too much and some reading was to be avoided by women completely. When Harriet Martineau wrote *Society in America* in the 1830s, one review suggested that it be kept from women because it would unsettle them and throw the world into confusion. “The cult of domesticity for the woman was a way of pacifying her with a doctrine of separate but equal – giving her work equally as important as the man’s, but separate and different.” (Zinn, 2003, pg. 114)

This ideology held no meaning in the lives of the African American women, many of whom were enslaved in the Southern States as part of the largest minority population in the new nation (Spruill, 1972). Nor could it be embraced by the oldest group of female residents of what was now called the United States, Native American women. The “cult of domesticity”, also referred to as “republican womanhood”, was based on the assumption that a wife and mother within a secure family circle without any concern of being separated from her husband or children. It also assumed that sons would be educated and become full citizens in the new society. These were not the realities for African American women even among the free black communities in the North (Berkin, 1996).

Throughout the 1820s and 1830s women remained restricted to the private sphere. Women were not able to vote, own property, attend colleges, and women’s wages were 25 to 50% of what men earned. Women were barred from higher education and excluded from the ministry, and from the professions of law and medicine. As the economy developed, the “cult of domesticity” assigned a woman’s domain to the home (Berkin, 1996; Spruill, 1972; Zinn, 2003). Placing all women in the same category and giving them all the same domestic sphere to cultivate served to create a classification of intimately oppressed citizenry by sex (Zinn, 2003). At about the same time, there were European philosophers claiming that natural roles for women

natural roles were domestic roles (in the private sphere) and that women were inherently inferior to men physically and mentally. The perception was created that women did not belong in the public, masculine domains of business, politics, education, and religion (Felter, 1997).

English common laws, as well as Blackstone's interpretation of them, had a compelling influence on the construction of legislation in the United States. In 1824, the Mississippi Supreme Court upheld the principle of a man's right to physically chastise his wife and continued to affirm that he could do so without being concerned about being prosecuted or disgraced (Browne, 1987). In 1864, a North Carolina Court ruled, in a case that involved a man choking his wife, that the husband had a right to direct and discipline his spouse in the same manner as a child. In 1866 North Carolina, modified a law that was created as an example of compassionate reform regarding the weapons that a husband could use to chastise his wife; the amendment limited the man's right to beat his wife to the use of a stick as large as his finger, but no larger than his thumb (Browne, 1987).

Several women, including suffragists Elizabeth Cady Stanton and Susan B. Anthony, were outspoken on these subjects and as activists, called for reforms. As the activists agitated, and cultural norms changed, legislators reacted. In 1871, both Alabama and Massachusetts revoked the legal right for a husband to beat his wife (Felter, 1997). In 1874, North Carolina made a similar ruling, but with a very important qualification that limited the cases that would qualify for court intervention. If no permanent injury was inflicted "nor malice, cruelty, nor dangerous violence shown by the husband, it is better to draw the curtain, shut out the public gaze, and leave the parties to forget and forgive". This ruling became known as the "curtain rule" and has been used as the justification for both the use of force and for policies of nonintervention (Browne, 1987).

At the time, very few women activists suggested that inequitable gender relations were the cause of domestic violence and political action that related men's violence to gender inequality was avoided (Felter 1997). Verbalization about wife beating emerged in other social and political movements such as Prohibition and woman suffrage (Felter, 1997; Kurst-Swanger & Petcosky, 2003). In fact, the women's suffrage movement and the advocacy of temperance may have rekindled interest in the appropriateness of using violence against women in the home. Women's suffrage groups were quite successful in gaining rights for women, including the right to vote, the right to own property, and not to be considered their husband's legal property (Kurst-Swanger & Petcosky, 2003). The temperance movement's focus on the relationship between drinking, violence, and the evil influences of alcohol on family life triggered a new consciousness about the rights of women to live life free of drunkards. Using this argument, temperance advocates were ultimately successful in beginning the development of divorce reform (Eigenberg, 2001).

2.2.1.2 Children in the Private Sphere

In early American society, the lives of children did not appear to be much different than what researchers believed existed during medieval times. Religious practices encouraged a rigid, inflexible, and harsh approach to child rearing; children were viewed as inherently sinful. Physical punishment was the accepted method of discipline and children who misbehaved had were beaten; Calvinistic theology focused on infant depravity and damnation (Kurst-Swanger & Petcosky, 2003) and the biblical dictum "spare the rod and spoil the child" provided justification for beating children; beating a child with a rod was considered appropriate. (Gelles, 1997; Kurst-Swanger & Petcosky, 2003)

Families sent their children to work to address their economic needs, abandoning their education. Families were also known to place their children under involuntary servitude and apprenticeships; children were bought and sold like slaves. (Whitehead & Lab, 1999; Kurst-Swanger & Petcosky, 2003). There was no law to protect children in early American society. It was not until the late 1800s that a national dialogue began about child maltreatment and the lack of legislation to protect children.

The case of Mary Ellen Wilson, in 1874, marked the beginning of the American movement to protect children (Gelles, 1997; Kurst-Swanger & Petcosky, 2003). A church social worker was informed that Mary Ellen Wilson, a 9 year old female, was being abused by her legal custodians. The social worker reported the case to the New York City Police Department and a charity agency, but neither organization would get involved because of a lack of statutory guidelines and evidence. In an endeavor to gain legal recourse to protect the child, the social worker sought assistance from the American Society for the Protection of Cruelty to Animals (ASPCA). The ASPCA brought suit against Mary Ellen's legal guardians, charging that the child was a member of the animal kingdom and as such, she had a right to protection from cruelty like any other animal, (Gelles, 1997; Sagatun & Edwards, 1995; Kurst-Swanger & Petcosky, 2003). The court agreed to hear the case, and the child was removed from the home and placed in an orphanage.

In December 1874 the New York Society for the Prevention of Cruelty to Children (SPCC) was founded (Gelles, 1997) and in 1881 the SPCC became the first child protection agency in the country. Although it was a voluntary organization, the agency had the right to conduct investigations, recommend alternative living arrangements for children, and bring legal suit against alleged child abusers (Gelles, 1997; Sagatun & Edwards, 1995; Kurst-Swanger &

Petcosky, 2003). Until 1935, the primary protective services for children were administered by voluntary organizations. After that, the passage of the Social Security Act provided federal funding for state-operated protective services; some states created their own publicly administered child protective agencies prior to the passage of the Act. (Wiehe, 1992; Kurst-Swanger & Petcosky, 2003). In time, state administered government programs replaced private protection agencies, however the transition was slow (Gelles, 1997, Kurst-Swanger & Petcosky, 2003)

In 1912, the Children's Bureau was founded by an act of Congress with the mandate of disseminating information on child development. Initially it was an agency in the Department of labor, probably due to public concern that the new waves of immigrants were sending their children to work in the factories in lieu of school. Later, the bureau was relocated, first to the Department of Health, Education, and Welfare, and to the Department of Health and Human Services where it has remained (Gelles, 1997). When it was created, the bureau had a budget and a mandate to conduct research on issues concerning child development. The first of the series of *Juvenile Court Statistics* reports was published by the Children's Bureau in 1927; much of the report is dedicated to child abuse and neglect.

In the 1940s, the development of diagnostic X-ray technology sparked an additional movement toward identifying child abuse and subsequently developing public policy to address the issue. The use of X-ray technology made it possible to view injuries that were not visible to the naked eye. In 1946, a radiologist published an article describing his observations of 6 infants who had multiple fractures of long bones and chronic subdural hematomas (Rathgeb, Smith, & Freinkel, 1988). While this article did not suggest that violence was the cause of the injuries, it

did stimulate interest in conducting research on the nature and potential causes of these kinds of injuries in children (Kurst-Swanger & Petcosky , 2003).

2.3 PUBLIC SPHERE

“There was no Mary Ellen for battered women, no technological breakthroughs such as pediatric radiology to uncover years of broken jaws and broken bones, No medical champion would capture public and professional attention in the way Kempe had for battered children. There was no “Women’s Bureau” in the federal government” (Gelles, 1997, pg. 32)

2.3.1 Women in the Public Sphere

Attention to wife battering came from the women themselves through a traditional grassroots effort (Gelles, 1997). After a pause in the feminist movement following World War I and through the 1950s, campaigns began in the 1960s against physical and sexual violence, for divorce reform, birth control, abortion, and sexual freedom. The battered-women’s movement and the provision of shelters and refuges reveals this legacy (Dobash & Dobash, 1992). Housing represented more than simply a roof over one’s head. Shelter provided one of the essential keys in the context of change and was a fundamental indicator of women’s social status.

A new wave of awareness emerged, with the perception that women with comparable talents and training had less opportunity for social recognition than their male counterparts. The slogan, "personal as political", signified a belief that patriarchy dominated many aspects of

women's personal lives as well as their public participation; the women's movement began to push for women's equality (Belknap, 2001).

A renewed interest in domestic violence was rekindled when the women's movement brought violence against women to the attention of the public. In her book, *Women and Male Violence*, Susan Schechter (1982) tells us that in the early 1970s, although it seemed as if the issue of battered women came out of nowhere, this movement was the result of changing political consciousness and organizing activity of women. The results of a small study that indicated high rates of wife abuse were reported to the National Organization for women (NOW) and a special task force was created to take the issue nationwide and promote the establishment of shelters to protect women (Kurst-Swanger & Petcosky, 2003). One of the oldest shelters established for women in the United States started as part of a consciousness- raising effort in 1971. Early leaders of the women's liberation movement identified women's oppression as a cause of their victimization, and freedom from that oppression was crucial to living free of violence (Schechter, 1982; Felter, 1997). Battered women's shelters provided a safe haven for abused women and children while also serving to provide organizing space for the battered women's movement (Felter, 1997). The "refuge" itself became a fundamental resource to sustain and advance the feminist movement within the context of the issue itself and in close contact with the women who were victimized. The provision of space being so thoroughly involved with the problem and with the lives of the victims and shelter workers was unique among social movements (Dobash & Dobash, 1992).

No corresponding movement evolved to institutionalize abusive men, perhaps reflective of a historical legacy that it seemed more natural to shelter women (Felter, 1997) and illustrating women's continued dependence in marriage and the economic disadvantages of depending on

men for the basic necessity of shelter (Dobash & Dobash, 1992). The economic dependence of women upon men was viewed as a key component of patriarchal control. The shelter stood, both symbolically and materially, at the core of the movement to eliminate men's abuse of wives and female partners. It was rare, if ever necessary, that men needed accommodations to escape abusive women upon whom they were economically dependent for the necessities of everyday life (Dobash & Dobash, 1992).

In the 1970s, through the Comprehensive Employment and Training Act (CETA), the federal government trained and paid half of all shelter employees. Some states started to place a tax on marriage licenses, using the proceeds to fund shelters. The Social Security Administration provided the largest source of public funding to provide temporary housing for abused and neglected children. In 1977, federal legislation was introduced for the funding of battered women's services; it failed. By 1979, fewer than 15 states had passed legislation funding shelters; less than half of these shelters received any public funding (Felter, 1997).

In 1977, two national domestic violence bills were defeated and the Domestic Violence Assistance Act failed to pass in 1978. However, feminists had succeeded in attracting attention to the issue of domestic violence against women. In 1979, Democratic President Jimmy Carter established the Office of Domestic Violence. In 1980, the Senate took action against the Domestic Violence Prevention and Services Act and blocked its passage. In 1981, Republican President Ronald Reagan closed the Office of Domestic Violence (Brooks, 1997).

In 1984, the Family Violence Prevention and Services Act provided limited funding to support shelters and services for women and children victims of domestic violence. Also in 1984, the Victims of Crime Act provided assistance to grants designed to aid victims of domestic violence, sexual assault, and child abuse (Brooks, 1997).

In June 1990, the first version of the Violence against Women Act (VAWA) was introduced by Senator Joseph Biden signifying the beginning of the Senate Judiciary Committee hearings on this piece of legislation. Survivors of violent attacks testified and the media focused on the victims of such attacks. Journalists were attracted to the issue resulting in editorials and newspaper articles nationwide. The media attention raised public awareness of the issue of domestic violence, however the actual piece of proposed legislation, VAWA, was only discussed secondarily in many reports (Brooks, 1997).

According to Brooks (1997) most of the action on the bill at this stage was the result of hard work by insiders. In order to generate popular support, Senator Biden held hearings on the bill to attract the attention of his colleagues and the media. The Judiciary Committee passed the bill unanimously in October, 1990, however the full Senate did not vote on the bill and it had to be reintroduced in 1991.

Action by interest groups had already begun. The National Organization for Women Legal Defense and Education Fund directed a task force, formed for the purposes of advising and lobbying Congress regarding revisions and additions to VAWA. The task force included over 170 groups including unions, churches, women's health groups, and educational interest groups (Brooks, 1997).

Senator Biden introduced the Violence against Women Act of 1991 to the Senate in January, and again, it was referred to the Senate Judiciary Committee. The new bill contained new technical definitions, changes in the grant amounts, and modifications in the requirements for receiving grants. In March 1991, Representative Barbara Boxer introduced the new version of the bill to the House of Representatives. There were two major differences between the Senate and House versions of the bill. The Senate version required states to set up commissions

to study domestic violence and authorized a national media campaign to educate the public about the problem; neither of these was in the House version. The Senate version also created programs in the schools to educate children about domestic violence, while the House version did not. Late in the year, components of the House bill were added to other legislation while in the Senate attempts were made to attach VAWA to the Crime bill. While action on the bills was slow inside Congress, The Violence Against Women Task Force had organized to lobby, make recommendations, and apply external pressure for the Act (Gelles, 1997; Brooks, 1997).

By the end of 1992, the bill had received a large amount of publicity and organizational support was strong with the momentum high. Barbara Boxer had been elected to the Senate, and discussion began as to who would reintroduce the bill to the next session of Congress. Female Members of Congress were organized in support of VAWA, providing the internal momentum that was needed to move the legislation. The lack of significant action on the bill in the Senate in 1992 prompted Senator Biden to pledge to prioritize VAWA in 1993 (Brooks, 1997).

In January 1993, Senator Boxer working with Senator Biden introduced VAWA in the Senate; the bill was nearly identical to the 1992 Senate version. The Senate added a requirement that the Centers for Disease Control to fund a study of the cost of domestic violence injuries as well as a provision for funding a national hotline for domestic violence victims. Representatives Schroeder, Slaughter, and Morella introduced the House bill in February 1993. The updated version of the House bill included provisions for the protection of battered immigrant women. The Senate Judiciary Committee approved VAWA in May and in November attached it to the Senate Crime Bill. When the House passed VAWA in November, the bill had undergone a series of changes including the elimination of the civil rights provision (Brooks, 1997).

Although the full House passed a version of VAWA in 1993, VAWA measures were incorporated into the Crime Bill. In March 1994, the House Judiciary Committee passed a crime bill that included VAWA as Title XVI; the House crime bill was passed in April 1994 (Brooks, 1997). Now VAWA had been incorporated into the Crime bills in both the House of Representatives and the Senate.

This put feminists in a position of lobbying for a Crime Bill in order to get VAWA passed. Additionally, the Crime Bills presented a number of controversial issues for Republicans and Democrats apart from their VAWA differences. The National Rifle Association was opposed to the gun ban in the Crime Bill and strongly lobbied House members. The majority of the House voted against the rule in August 1994, blocking the bill's movement and returning it to the House-Senate committee for revisions. In August the House approved the revised version (including a cut of \$3.3 billion), and the Senate voted to pass the bill exactly as it came out of committee. President Clinton signed the Violent Crime Control and Law Enforcement Act of 1994 in which VAWA was enacted as Title IV (Brooks, 1997).

2.3.2 Children in the Public Sphere

In 1962, Henry Kempe and his associates introduced the term "battered child syndrome" in an article that was published in the *Journal of the American Medical Association*. The article, based on their review of the research conducted on more than 300 cases of abuse, concluded that some children were being victimized by their parents and/or caretakers (Gelles 1997; Kurst-Swanger & Petcosky, 2003). "*Time*, *Newsweek*, the *Saturday Evening Post*, and *Life* followed up on the Kempe article with news and feature stories (Gelles, 1997). The article fueled a legislative movement. Issues of child abuse moved to the top of the political agenda and child protection agencies were given more credibility and authority. Kempe's work served to facilitate interest in

conducting research into the nature and causes of child abuse; the government, medical profession, and other professions that interact with children would no longer ignore the battered child (Pagelow, 1984; Gelles, 1997; Kurst-Swanger & Petcosky, 2003).

In 1963, the U.S. Children's Bureau disseminated principles and suggested language for states to form legislation for mandated reporting procedures to the protective services of the state for physically abused children. For two reasons, the initial language suggested by the Children's Bureau placed the primary duty to report on physicians. First, the Bureau felt that abused children were most likely to come to the attention of someone outside of the home when the caretaker sought medical care for the child. Second, the reporting would uncover cases that a physician would come to suspect because of the specialized skills and training needed to practice in the medical profession. Furthermore, it was felt that physicians were failing to report because they felt that they were either "meddling" or violating "professional confidence". It was also thought that some physicians were deterred from reporting due to a fear of civil liability, a fear, some argued, that could be diminished by enacting a statutory immunity from liability. (Paulsen, 1967)

By the end of the 1960s, every state had enacted some form of mandated-reporting legislation, prompting Congress to follow with federal legislation (Gelles, 1997; Kurst-Swanger & Petcosky, 2003). Senator Walter Mondale introduced a bill proposing the Child Abuse Prevention and Treatment Act (CAPTA) while he was chair of the Senate Subcommittee on Children and Youth. Debate centered on the definition of child abuse, focused on "the most horrific examples of physical abuse" to deter the challenges "from conservatives who might have opposed the bill as undue interference in the family and parental discipline." (Rathgeb, Smith, & Freinkel); child neglect was not emphasized. The Nixon administration opposed the bill, as the

CAPTA created a new categorical spending program. New spending was in direct opposition with the administration's goal of curtailing federal spending on local social problems.

In 1974, Congress passed CAPTA and, in addition to providing funds for child maltreatment programs and services, the National Center on Child Abuse and Neglect (NCCAN) and the National Clearinghouse on Child Abuse and Neglect Information (NCCANI) were created. NCCAN serves as a major resource for professionals and the community and continues to function at the center of child abuse public policy; NCCANI serves as a resource for research, programs, and general information. CAPTA also provided federal funding for child maltreatment programs for states that were not able to comply with the federal requirements. States were provided incentives to improve their policies and procedures on mandated reporting, investigating, processing of cases, and training of personnel in return for federal funding. CAPTA also provided federal funding for research and demonstration projects (Gelles, 1997; Kurst-Swanger & Petcosky, 2003).

CAPTA was reauthorized in 1978 and the Adoption Reform Act was added to it. In 1984, amendments expanded the definition of abuse to include medical neglect, maltreatment of children in out-of-home care, and sexual exploitation. The amendments also authorized the National Incidence Study (NIS), a nationwide study of the incidence and prevalence of child maltreatment. NIS is currently the only existing tool that can be used to estimate the scope of child maltreatment in the United States (Kurst-Swanger & Petcosky, 2003).

2.4

LEGAL IMPLICATIONS OF LANGUAGE

The concept of separate public and private realms is imbedded in the law regarding the state's relationship to the family. In the case of domestic violence, issues surrounding the public and private realms become particularly important because this kind of violence typically occurs in the private realm. Ideologically, the private realm is separate from the state. The family as a social unit has been constructed both socially and historically making the organization of the family including the place of women politically significant. To address domestic violence, one must also address the public/private split which can be used as an ideological camouflage for the state's *actual* interventions into the private realm (Marshall, 1997).

2.4.1 Private Sphere

The public is that which is owned, organized, or administered by the state; the private is that which is assumed by voluntary arrangements made between private individuals especially between the family and the economy (Dobash & Dobash, 1992). Historically, the only arena in which the state could legitimately intervene was that of the public world; historically, the arena in which women could legitimately operate as a group was the private arena of the family and home (Belknap, 2001; Dobash & Dobash, 1992). The distinction between public and private and maintaining the idea that it is inappropriate for the state to intervene in private affairs creates problems in seeking police protection in incidents of domestic violence (Dobash & Dobash, 1992).

The call for state intervention dates back at least to the demands of Mary Woolstonecraft in the eighteenth century (Dobash & Dobash, 1992). Attempting to ensure enforcement of domestic violence arrest policies and creating public policy to house women and children

escaping from violent home situations represent attempts to obtain state intervention in the private family world. For the most part, this private realm has historically been deemed beyond the legitimate control of the state.

When dealing with the public sphere of the state, language becomes very important in defining abuse in the private sphere of the home. The word “wife” implies a “woman” living in a legal state of marriage as opposed to the word “spouse” which is gender neutral; both imply the social institution of marriage. Neither the term “wife” nor the term “spouse” include cohabitating partners. The term “family” implies a variety of relationships and the term “spouse” obscures gender, while implying a nuclear family (Naranch, 1997).

Recall that in 1981, Republican President Ronald Reagan closed the Office of Domestic Violence and in 1984 the Family Violence Prevention and Services Act was passed. Susan Schechter unsuccessfully argued against the consolidation of domestic violence against women with child abuse. She stated that the major goal of child protection was to keep the family united and free from violence while the goal of the National Coalition Against Domestic Violence was to support a woman in creating a violence-free life for herself and her children. Naranch (1997) argues that incorporating child abuse and domestic violence against women into the term “family violence” can be used to obscure the issue of violence against women and violence by intimates outside of marriages.

2.4.2 Public Sphere

Most laws are, in terms of language, sex neutral; they do not mention sex or require gendered applications. Because women and men hold different positions in society, unisex laws will have different results for women than for men. Furthermore, lawmakers represent the interests of

dominant groups. The result has been that the law has reflected and maintained unequal power relations for women and men within society (Yeager, 1995).

Legal changes are necessary in achieving access is necessary to effect social, political, and economic change; however, legal changes, alone, are not sufficient. It is important to have both access and influence. Access involves acquiring recognition and rights; influence involves being in a position to use the rights to attain new advantages and power (Belknap, 2001).

A 1972 amendment of the 1964 Civil Rights Act, Title VII, stated that it is illegal to use a person's sex, race, religion, or national origin as the basis for terms of employment. Although the legislation helped to improve women's opportunities, it did not provide clear guidelines in allowing women equal opportunities (Belknap, 2001). Women still constitute a conspicuous minority of those working in law enforcement, the law, and corrections (Coontz, 1998). Women's legal status continues to lag behind men hindering their full representation in the public sphere where decisionmaking takes place. The combination of women's legal and social subordination continues to put them at greater risk of victimization.

3.0 THEORETICAL PERSPECTIVES

Although domestic violence is not new, defining it as a social problem worthy of state intervention is. Prior to the 1970s, “legal fictions, social prejudices, and criminal justice apathy and ignorance combined to define domestic violence as a nonevent”, however, in the past decade, society’s acceptance of domestic violence has significantly diminished (Miller, 1998). Scholarly attention to this type of violence has a relatively short history since it has only been three or four decades since it has received enough attention to become a topic of concern (Loeske, Gelles, & Cavanaugh, 2005). Two dominant theoretical perspectives, the family violence perspective and the feminist perspective, have emerged during the recent decades to shape domestic violence as a social problem. While both of these perspectives are controversial and highly political, they continue to influence the direction taken by interventions, policies, and programs (Hart, 2005). Although these are not the only perspectives, they are the perspectives that have dominated the public debate on the issue.

3.1 FAMILY VIOLENCE PERSPECTIVE

Family violence theories began to emerge during the 1960's and the 1970's, almost simultaneously with the Women's movement. “Prior to this time, violence within the family was not recognized as a social problem and thus was not of much interest to scholars” (Kurst-

Swanger & Petcosky, 2003, p. 27). Early conceptualizations of family violence were heavily influenced by psychology (Loeske, Gelles, & Cavanaugh, 2005). There was an increased emphasis on family as an institution. Formerly viewed as private domain, the family was now being scrutinized by the public (Fagan 1988). The first concerns focused on the welfare of children (Gelles, 1997; Pagelow, 1984). In the 1960s the occurrence of child abuse was defined and framed as a problem by the medical community. Sociologists began to suggest that the family home was not necessarily a safe and non-violent environment. The family violence perspective emerged arguing that the cause of spouse abuse was within the structure of the existing family institution (Kurz, 1989). The family, viewed as a system of social relations with distinct properties, was considered to be an optimal environment for violence (Gelles, 1997). The lack of social control of behaviors within the family was due to several distinct characteristics of the family structure as a social system; members spend a large amount of time with each other; their involvement with each other is intense, family members know each others' vulnerabilities; family membership is not voluntary; and family matters are generally private. All these system characteristics helped to hide violence that occurred within the family (Gelles, 1997).

As a result, two kinds of family violence emerged, child abuse and woman abuse (Gelles, 1997; Pagelow, 1984). The hierarchy of power in the patriarchal family provided that children had an inferior status. Children were expected to be subordinate and to obey their fathers. It was common practice for fathers, who were the head of the family unit, to use violence as a part of child rearing practices. Women in a patriarchal society had less power than men in all aspects with their subordination being legitimized through the hierarchal structure of the family unit as

well as the hierarchal structure of the institutions of society as a whole. Violence against women was seen as embedded cultural practice (Kurst-Swanger & Petcosky, 2003).

The complexity of family violence has raised many questions and has drawn the attention of a variety of experts who approach their work using different frameworks pursuing different goals. The editors of *Current Controversies on Family Violence*, (Loeske, Gelles, & Cavanaugh, 2005) cite four characteristics of the topic of family violence that lead to controversies among the experts. First, family violence is a practical problem that needs to be resolved; it is about real people who experience sometimes life-threatening violence and about the people who commit this violence. Second, family violence is a political issue; experts in the field can influence what is done to stop violence, help victims, and rehabilitate or punish offenders. As the practical and political stakes increase, so does the intensity of the disagreements among the experts. Third, views of morality underlie all definitions and measurements of family violence, making controversies difficult, if not impossible, to reach resolution based exclusively on reason and logic. When adding moral dimensions such as evaluating what behaviors are defined as acceptable or not acceptable, or what values should be preserved, arguments can become emotionally charged “because morality is as much about feeling as about thinking.” Finally, in the course of their work, researchers and practitioners have witnessed first hand the “sometimes disastrous unintended consequences of well-intentioned social policies.”

Research on family violence has evolved into various theoretical models such as psychiatric/psychopathic (the most prevalent), sociopsychological, sociocultural, and multidimensional that attempt to explain family violence from different levels of analysis (Kurst-Swanger & Petcosky, 2003). However, perhaps reflective of the complexity of the topic of family violence, there is no consensus on a “best” conceptual framework for evaluating the

problem. Different conceptualizations will probably be “best” on different occasions because some violence by some people may be the consequence of psychopathy, some violence is clearly attributed to tactics of male control of women, and some violence may be associated with social structures, processes, coupled with social forces (Loeske, Gelles, & Cavanaugh, 2005). Therefore, for example, a psychological model may be particularly relevant for understanding certain instances of violence when personality disorder is recognized as a causative factor in spouse assault and completely irrelevant when explaining the prevalence of physical abuse from a spouse or partner experienced by women in general.

During the 1960’s and 1970s, the psychiatric/psychopathic theory was the prevailing theory attributing family violence to a psychological abnormality that produces violent behavior and causes a person to physically attack family members. The psychiatric/psychopathological model involves theories at the individual level where family violence is examined as a social problem by analyzing and explaining the behavior in terms of the individuals involved. The model originated with physicians who were treating the effects of child abuse in their practices, the cause of violent behavior was attributed to a perpetrator’s medical condition analysis (Kurst-Swanger & Petcosky, 2003). Since the focus is on offenders’ characteristics such as mental illness, alcohol and substance abuse, and personality disorders (Dutton, 1998; Gelles, 1997), the psychiatric/psychopathic model tends to concentrate on the individual batterer (Dutton, 1998; Gelles, 1997; Pagelow, 1984).

Hamberger and Hastings (1986) used the Millon Clinical Multiaxial Inventopry (MCMI) and the Minnesota Multiphasic Personality Inventory (MMPI), self-reporting instruments used as assessment tools to study the incidence of Personality Disorder (PD); the researchers began to see a non-PD group emerging from their data. Later, in a sample of 196 men, Lohr, Hamberger

and Bonge (1988) used a cluster analysis to analyze the PD disorder scales and found a cluster, 39% of the sample, that revealed no elevations on any of the 8 PD scales. In a subsequent study of 833 court-referred men, Hamberger, Lohr, Bonge, and Tolin (1996) found that 40% of the sample were categorized into the no PD cluster. One problem with the study's approach was that the MCMI was not meant to be cluster analyzed because the instrument was designed for individual assessment. A second problem was that the sample consisted of court-referred individuals. The researchers acknowledged that the men entering the treatment groups who were assessed early and developed a sense that treatment was associated with a judgmental aspect and may have underreported pathological behaviors including violence experienced within the family (Dutton & Hemphill, 1992; Dutton & Starzomski, 1993). In a study using the Personality Disorder Examination (PDE) and the MCMI-II, the incidence of personality disorders was investigated using sample of 85 court and self-referred wife assaulters; results from one instrument (MCMI-II) indicated that between 80% and 90% of the sample had some criteria for personality disorder while results using the other (PDE) indicated a smaller prevalence rate of about 50% (Hart, Dutton, & Newlove 1993).

Research based on samples of subjects who are receiving treatment for a problem may have limited generalizability because the subjects may not really represent the entire population manifesting the problem. The selection process by which someone decides to get help, or comes to the attention of the authorities and is forced into treatment, may represent the extreme tail of a distribution (Straus, 1989). Straus cites several factors that could produce differences between clinical samples and representative community samples including the fact that extensive data can be collected on a clinical population, whereas community surveys are limited in the amount of

data that can be collected from each subject. Straus also points out that a clinical population provides more opportunities to audit the accuracy of the information being collected.

O'Leary (1994) asserts that individual level psychopathology only contributes to our understanding of the most extreme violent behavior. Psychological theories may not be very useful in understanding why pushes, shoves, slaps and spankings are characteristic of routine family life (Loeske, 2005).

Although some find the psychological model inaccurate and too simplistic, the model continues to be applied to explain family violence. Gelles (1997) suggests that the reason for the persistence in the use of this model lies in the fact that intimate violence is so extensive in our society that we do not want to view it as a pattern of family relations; it is easier to attribute it to illness. Gelles also suggests that the psychiatric model may serve as a smokescreen preventing our considering social organizational factors that cause family violence.

The sociopsychological model approaches the problem of family violence at a group level and the problem is defined in terms of the family system, the environmental factors that affect the family, and the interactions between family members. Family violence is explained in terms of family patterns as a whole, using relationships and interactions between family members. The focus is on the structure and organization of the family and the environmental factors that affect the family system (Kurst-Swanger & Petcosky, 2003).

One of the theories within this model is social learning theory. Social learning theory examines a person's behavior as a result of cognitive processes, modeling and reinforcement where violence is viewed as a learned behavior. Thus, when violent behavior is reinforced, this behavior continues into adulthood as a method of conflict resolution. Social learning theory posits that children learn through role modeling and imitate the behavior of their parents and they

are more inclined to imitate the behavior of the family member perceived to have more power (Pagelow, 1984). When children learn to use aggressive behavior and the behavior is reinforced positively, it is likely to be repeated. Social learning theory has been used to study the effects of experiencing domestic violence as well as witnessing it. Often referred to as the intergenerational theory, it proposes that abusive behavior is transmitted from one generation to another; as children's use of aggressive behavior gets their needs met, they continue to use it as a means to meet their needs in adulthood (Kurst-Swanger & Petcosky, 2003).

Stress theory explains violence and examines family characteristics and issues that would subject a family to increased levels of stress and perhaps predispose it to violent interactions (Gelles & Strauss, 1988). One of the common features of violent families, social isolation, involves the privatization of the family. When the family as an institution is isolated from the larger society, the family is not compelled to explain negative situations such as family violence, making it easy to keep family secrets (Finkelhor, 1983). Additionally, social isolation prevents families from getting help due to limited contact with resources outside of the family (Kurst-Swanger & Petcosky, 2003).

Power theory (Goode, 1971) explains family violence in terms of natural power differentials that exist within families based on gender and age; those who are bigger and stronger have greater access to resources and exert their will over those who are weaker, smaller and have fewer resources. He discusses both the actual use of force as well as the threat of force to maintain power and control within the family unit. According to this theory, men have more power due to their social status, size and strength; the most powerful tend to abuse the least powerful (Finkelhor, 1983). The power differential between a couple may also be related to the

likelihood of victimization within the family; the less power that a female has compared to her husband, the more likely it is that she will experience abuse (Finkelhor, 1983).

Resource theory, as an extension of power theory, posits that the more resources a family member has (social, personal, and economic) the more power that person has within the family system. The most powerful person in the family, traditionally a male, is in a position to make decisions and enforce them on other family members; enforcement can involve threats or abusive measures (Gelles, 1997). Since men generally hold the highest paying jobs and the most influence in the community, women and children are in the subservient roles making them more likely to be victimized in the home.

Social control theory (Homans, 1961) perceives social attraction as a function of costs and benefits; a person invests resources in a social situation with an expectation of benefits. Gelles (1997) suggested that family violence is driven by the social exchange theory in that individual family members use violence to obtain goals such as controlling family decisions, getting attention, and meeting individual needs. Social norms and family structure increase the likelihood that the benefits of using violence will outweigh the costs. When violence is used, the private nature of the family prevents its members from seeking outside help and social institutions are reluctant to intervene in private matters; the abuse will go unreported and undetected at minimal expense to the abuser (Kurst-Swanger & Petcosky, 2003).

The "culture of violence" theory seeks to explain violence from two perspectives, cultural approval and subcultures of violence. Cultural approval attributes family violence to the level of acceptance of violence in society. It is more likely that violence will be used within the family if society accepts violence as a way of attaining goals, resolving conflicts, or maintaining the status quo. If society reinforces the acceptance of using violence and if weapons are readily available,

violence becomes an accepted means of conflict resolution at both the institutional and personal levels. The subculture of violence explains family violence in terms of how cultural norms vary within a society and how some subcultures value the use of violence. If violent behavior is accepted as normal among members of a group, it is more likely that group members will use that kind of behavior (Kurst-Swanger & Petcosky, 2003).

Conflict theory holds that domestic violence is the result of the social structure of our society. From this perspective, our society is socially structured by gender and, because males have historically had greater access to resources such as property, education, employment opportunities and status, they have continued to maintain power over women (Kurst-Swanger & Petcosky, 2003). In this structure, which has existed for centuries, males are socially in positions of power, enabling them to use abusive methods to resolve conflicts without consequence (Berry, 1995; Browne & Herbert, 1997; Carderelli, 1997); the lower the status of women in society, the greater the frequency of wife beating (Straus, 1994).

Each model and its corresponding theories help to explain some types of family violence, although most explain only a small part of a much larger picture. Additionally, some theories account for the reasons family violence begins, but they fail to explain why it prevails (Kurst-Swanger & Petcosky, 2003). Family violence theories have provided little analysis regarding why domestic violence is tolerated by society and there has not been aggressive proponents for change. “Although the pioneering work of sociologists such as Gelles (1972) and Steinmetz and Straus (1974) played a role in making domestic violence a salient public issue, they remain more active in academic circles and not as vocal in advocating institutional or structural changes as a mechanism to address domestic violence” (Buzawa & Buzawa, 2003).

3.2

FEMINIST PERSPECTIVE

The feminist theoretical perspective emerged during the Women's movement in the 1970's. From this perspective, domestic violence was more broadly defined as male privilege over and coercion of women. Feminist theory posits the cause of domestic violence is in the patriarchal structure of society (Kurz, 1989) and that male dominated structures are manifested in the legal system, economic structures, social institutions, sexist division of labor, and traditional gender role expectations. As power is related to patriarchy differential access to structural resources exist in our society and the disparity in women's access to resources was due to society assigning value to certain characteristics and assigning a hierarchy as to what is viewed as inferior or superior. As a result, society has historically valued the male attribute for gender more than the female attribute and this dualism has continued and persisted through time and movements for change (Griscom, 1992).

The feminist perspective also raises important questions about the nature of conventional research including the place of values in research, the kinds of questions asked in research, how data is used, and the nature of the relationship between the researcher and the subject (Bograd, 1988). While most researchers attempt to be unbiased, or value-free, in their work, feminists argue that traditional research takes place in a social context that is patriarchal and male-defined social knowledge is a fundamental part of how we think. Yllö (1988) suggests that hiding one's values behind a declaration of objectivity is not the same as being unbiased. Feminists propose that it is important that researchers be candid concerning the values that guide the work and one of the primary values of feminist researchers is the commitment to explain women's experiences from women's perspectives. Feminist researchers also pose different kinds of questions than mainstream researchers challenging the current explanatory frameworks. When studying the

subject of chronic intimate abuse, mainstream social science researchers tend to ask why women stay in the relationship. Feminist researchers ask why men use physical force against their partners and what social factors restrict women from leaving the relationship. Because they ask different kinds of questions, feminist researchers often use different methods of collecting data, initially relying on collecting a large volume of qualitative data through open-ended questions. After the information is collected, the researcher analyzes the data to see what factors arise out of the data rather than imposing pre-established coding schemes. Feminist researchers collect these data with the express purpose of changing the status quo; data collection, interpretation of the data, and how the data are used are inherently political activities (Bograd, 1988). In traditional research, the researcher is supposed to be neutral, taking the necessary precautions not to influence the data collection effort; feminist researchers use more collaborative methods of inquiry replacing detached investigation with open dialogue (Yllö & Bograd, 1988).

According to feminist theory, violence against women results from gender inequality on the societal level (Bograd, 1988). Feminist researchers argue that in order to stop men's use of violence against women on the personal level, changes must be made to structures of gender inequality at the societal level (Brownmiller, 1975; Dobash & Dobash, 1979; Yllö & Bograd, 1988). The more unequal women are compared to men in a society, the more likely men are to be violent toward women.

Dobash and Dobash (1979) explain patriarchy as being ideological and structural, encompassing the beliefs, norms, and values about the status and roles of women in a society as well as women's access to and positions within social institutions. Ideologies and structural inequalities occur within political, economic, and social dimensions. Political status includes access to power and representation in the state. Economic status includes activities and

institutions constructed around the production, distribution, and consumption of goods and services. Social status includes women's access to education, their sexual objectification and reproductive rights (Bradley & Khor, 1993). When men dominate family, political, economic, and other social institutions both in number and in power, the policies and practices of these institutions are likely to embody, reproduce, and legitimate male domination over women. Men's power will be considered right and "natural" not only in these institutions but also throughout the society in general.

There is evidence that violence against women is linked to structures of male dominance. Yodanis (1998) conducted a macro-level empirical test of violence against women using a data set constructed by combining data from the International Crime Victims Survey (ICVS) and United Nations (UN) official statistics to develop a cross-national measure of the status of women. The study was designed to research whether there was less violence against women in countries where the status of women was high and more violence when the status of women was low and whether women were less fearful in countries where rates of violence are low. The main finding was that a structure of gender inequality was associated with a culture of violence against women. The educational and occupational status of women in a country was correlated with the prevalence of sexual violence in a country, with a high status of women corresponding to lower rates of sexual violence. The study also found that as the rates of sexual violence in a country and women's general probability of being a victim increased, so did women's fear. She concluded that a culture of fear among women grows among a culture of violence against women. A woman did not personally have to be a victim of violence to feel more fearful. Although the study was limited to a small number of cases and these data could not provide the details of how women actually experienced violence and fear in their lives, it did provide a cross-

national test of the relationship between macro-level structural measures of the status of women and experiences of violence and fear among women. The study revealed that social structural characteristics, particularly women's access to and position in social institutions, were related to rates of sexual violence and that rates of sexual violence, in turn, are related to women's fear.

In a study designed to test the relationship between structural gender inequality and rates of violence against women Yllö (1983) used the U.S. states as the unit of analysis. States were theoretically appropriate units of analysis for the comparative study because the timing of their settlement and development have influenced their individual characteristics and the position of women who reside in them and states are the initiators of legislation and the unit of implementation of federal policies that affect women (Yllö & Straus, 1999). Yllö constructed a Status of Women Index ranking American states with regard to the economic, educational, political, and legal status of women. Then, using the nationally representative survey on family violence that was conducted by Straus, Gelles, and Steinmetz (1980), she correlated the state scores on the Status of Women Index with rates of domestic physical violence against women in the state, as measured by the Conflict Tactics Scales (CTS). The initial analysis revealed a curvilinear relationship, that is, wife abuse did not simply decline as women's status improved. Rather, wife abuse was high in states where women's status was low and wife abuse declined as women's status improved. However, rates of wife abuse increased in states in which women's status was highest relative to men (Yllö, 1983). Yllö concluded that rapid changes in equality may have resulted in a violent backlash by husbands.

The same curvilinear relationship was found in a replication study, indicating that as the status of women improves, violence declines to a point. The authors suggest that different parts of the curves represent the operation of different processes. The downward slope on the left side

reflects the principle that the greater the social inequality the more coercion that is needed to maintain the status quo. The increase of wife beating on the right side of the curve may represent the increase in marital conflict when the balance of power between the sexes undergoes rapid change. The study also found a linear relationship between patriarchal family norms and wife beating; states with male-dominant norms displayed twice as much wife beating as those with egalitarian norms. Additionally the logistic regression found an association between patriarchal norms and violence only in the states where the status of women was highest; wife beating was most prevalent in a context where women's status in economic , educational, legal, and political institutions were high, but the prevailing norms favor women's subordination in marriage. The authors suggest that these findings may point to conflicts inherent in the inconsistency between equal structural status of women and the maintenance of a traditional patriarchal power structure within the family (Yllö & Straus, 1999).

Feminists argued that in male-dominated institutions, violence was a tool that men could use to keep women out or subordinate and thereby maintain male power and control. Given the male-constructed and male-defined policies and practices of these institutions, such violence was not likely to be punished or stopped. On the contrary, it may have been be subtly or overtly condoned and encouraged (Dobash & Dobash, 1979). It is widely known that police, an institution dominated by men, usually considered arrest a last resort resolution in incidents of domestic violence (Black, 1976; Sherman, Smith, Schmidt, and Rogan, 1992). Policing of men's violence against women was largely in the hands of men (Stanko, 1989) exemplifying the male dominance underlying the problem of domestic violence; within institutions dominated by men, aggression is often legitimized; the police force as an institution, may have actually been contributing to maintaining the problem (Sparks, 1997). Feminist theorists do not use terms such

as "family violence," "spouse abuse," marital violence," or "conjugal violence" because this language shifts the focus away from the concept of male coercion and away from the woman. Instead they advocate for terms such as "wife-beating," "domestic violence", "battered women" and " woman abuse" because this language represents the phenomenon of domestic violence more accurately (Davis & Hagen; 1992 Naranch, 1997). They have provided a challenge to working within the context of traditional institutions to inquire why particular societal responses occur and why legal institutions have tolerated and sometimes even perpetuated domestic violence (Buzawa & Buzawa, 2003).

Male dominance within families can be viewed as part of this wider system of male power. Structured gender inequality both in the home and in society in general serves to maintain "family values" as endorsed historically in our culture through religion, law, and tradition; family violence theorists do not stress the historical and cultural roots of violence against women (Buzawa & Buzawa, 2003). The traditional privatized family structure can serve to isolate victims and make family violence an individual problem rather than a societal problem (Schechter, 1982). In the early 1970s, Gelles and Straus coined the term "the marriage license as a hitting license" in response to the discovery that the assault rate among married couples was many times greater than the assault rate between strangers; they further argued that the common law rule that gave husbands the right to physically chastise their wives, although not formally recognized by the courts, lived on in the way the criminal justice system actually operated (Stets & Straus, 1990).

While family violence theorists argued that with all crimes occurring in the family the state exhibits a need and a desire to protect the privacy of the family as a social institution (Kantor & Straus, 1990) the feminist perspective provided a challenge to work toward social and

legal change within the context of traditional institutions as they were currently structured. The historically derived interest of the state in non-interference in family matters, the conflicting interest of the state in regulating the family, and the interest in preserving the family as a social institution resulted in different standards in responding to family crime versus non-family crime (Kantor & Straus, 1990). While the value that society places on preserving family privacy and integrity was seen by feminists as serving patriarchal interests, some family violence theorists argued that the differential treatment of family crime is more appropriately described as a situation of normative ambiguity. Behaviors, such as parents using physical punishment to control children's behavior, that would be considered crimes outside of the family, may be tolerated within the family (Kantor & Straus, 1990). Since the social and legal connections that bind the family together as a social institution meet important needs of its individual members, norms exist that tolerate a certain level of mistreatment of family members (Hotaling & Straus, 1980; Straus, 1974; Straus & Lincoln, 1985).

While psychological and sociological theorists have helped to bring domestic violence into the public view as a significant issue, they remain more active in academic circles. Feminists, on the other hand, have been much more vocal in advocating institutional or structural changes as a way to address the problem of domestic violence and "they arguably have been the primary impetus for social and legal change" (Buzawa & Buzawa, 2003, p. 68). Feminists have argued that a holistic view of our social structure provides a more complete analysis of why violence occurs than any examination of individual circumstances of a specific offender or characteristics of a family unit. They have provided a theoretical framework to how a society may be predisposed to violence against the less powerful of its members. The feminist framework also provides insight into why social and legal institutions have tolerated, sometimes

perpetuated, domestic violence (Buzawa & Buzawa, 2003).

Disagreements are now less common among feminist activists and researchers from other perspectives who do not agree that gender and power are the dominant features that explain intimate violence; a more cooperative spirit has emerged that seeks to understand a wide variety of risk factors – societal, historical, psychological, and familial (Buzawa & Buzawa, 2003; Straus, 1992; Yllö & Bograd, 1988). As the knowledge base has grown, the focus has shifted from philosophical differences to policy change and implementation.

3.3 DEVELOPMENT OF ARREST POLICIES

As discussed previously, whether intentional or not, the effect of statutory changes has delegated the primary responsibility of addressing domestic violence to the criminal justice system. When VAWA measures were incorporated into a crime bill, domestic violence was framed as a criminal problem. As such, the solutions offered to address domestic violence have been implemented primarily through the criminal justice system. Zorza (1992), in her description of police department policies and training of police recruits across the United States during the 1970s, describes how many police departments had a non-arrest policy or a policy that discouraged arrest or even responding to domestic calls. The passage of VAWA altered this position resulting in profound structural changes in the response of government agencies to domestic violence and local law enforcement has had the most significant role in reacting to domestic violence (Buzawa & Buzawa, 2003).

Thus, in the past decade we have observed an enormous increase in legislative attention to the problem of domestic violence leading to new laws in every state and resulting in a wide

variation of statutory models. Between 1997 and 2002, there were hundreds of enactments that included both amending old laws and passing new ones; a few states created a new crime of domestic violence (Miller, 1998). In an attempt to make arrest and prosecution of abusers easier, many states passed new arrest policies including mandatory arrest, "pro-arrest", and "preferred" arrest laws (Bachman & Saltzman, 1995; Sherman, Smith, Schmidt, and Rogan 1992). Every state now permits warrantless arrests in misdemeanor domestic violence cases subject to a police officer's determination that domestic violence may have occurred and these laws vary from state to state (Miller, 1998).

3.4 REVIEW OF THE EVIDENCE

Little to no direct empirical research has been conducted on the specific problem raised by this study, that is, victims' decisions not to cooperate with police in incidents of domestic violence. The available empirical research both quantitative and qualitative, conducted by family violence researchers, feminist researchers, public policy researchers, and criminologists is used to identify the bounds of the issues that this dissertation addresses and to form the specific hypotheses.

Social control through legislation and the use of aggressive arrest policies, has dominated the theories on how best to reduce and deter domestic violence. In particular, the focus on the effects of increasing the risks and punishment costs of violence toward intimate partners has been rooted in assumptions of specific deterrence. In this context, the emphasis has been on the application of legal sanctions through arrest and prosecution of assailants or the threat of legal sanctions through civil legal remedies, such as protection orders, that carried criminal penalties if violated (Fagan, 1996).

The Minneapolis Domestic Violence Experiment is probably the most cited and the most influential criminal justice experiment in recent criminological and policy literature history. The experiment was critical in influencing public perception of domestic violence as a crime that required formal criminal justice intervention (Fagan, 1988). The study used an experimental design to test the effects of arrest as a response to incidents involving domestic violence. Police officers were assigned randomly to one of three groups of possible responses (treatments) to domestic violence situations; arresting the suspect, separating parties, or advising. The authors then evaluated the success of these three treatments, finding that the smallest proportion of repeat offenders belonged to the group in which the police officer had arrested the offender. These results did not necessarily address the question of what proper police response is to incidents of domestic violence. However, the study received a great amount of publicity and its conclusions were federally funded and supported.

Shortly after the findings of the Minneapolis Domestic Violence Experiment were reported by Lawrence Sherman and Richard Berk in a series of articles beginning in 1983, the number of police departments encouraging arrests for domestic violence tripled and almost a third of these departments stated that they had changed their position at least partially because of the Minneapolis experiment. "The fact that it generated wide-scale abandonment of police doctrine that had remained static for decades is still probably an understatement of its importance in changing policy." (Buzawa & Buzawa, 2003, pg. 98)

Some argue that mandatory responses may place victims in danger. The effectiveness of mandatory arrest is not clear. The Spousal Assault Replication Program (SARP) conducted several replication studies of the original Minneapolis Domestic Violence Experiment with findings ranging from arrest having no effect to arrest producing an escalation effect.

Additionally, the data suggested that recidivism was reduced in the short term, but may have increased in the long term. In a replication study using a Bayesian approach, Berk, Campbell, Klap, and Western (1992) conducted field experiments in 4 major US cities and found that, on average, arrest was no more effective than other police interventions in reducing new incidents of violence. In fact, the authors found that arrest had differential effects on subsequent violence depending on the background of the offender. Using prior arrests for domestic violence as a measure, the researchers found that those who had been previously arrested were more likely to offend again. While they agreed with Sherman, Smith, Schmidt, and Rogan (1992) that arrest seemed to work better in terms of deterrence for employed versus unemployed suspects, they felt that employment status may have only indicated that an employed subject may be at home less and have fewer opportunities to interact with the victim. Additionally, because this was a Bayesian approach, since arrest was found to have no effect on the average for a given pool of suspects and a beneficial effect for a subset of suspects, then it is an arithmetic necessity that arrest had a harmful effect on the remainder of the suspects.

The replication experiments did not consider the effect of decisions by prosecutors and courts following arrest and therefore did not demonstrate the effectiveness of mandatory arrest as part of a coordinated system response to domestic violence; the experiments also did not address the effect of non-arrest. Arrest communicates the message that domestic violence is a crime; a coordinated system response sends a message from the community that domestic violence will not be tolerated, and that the criminal justice and law enforcement systems will be involved (Zorza, 1994).

3.4.1 The influence of the victim's relationship to the perpetrator

Sherman et al (1992) suggest that domestic assault offenders may retaliate if they think the victim played a role in having them arrested, offsetting any deterrent effect of arrest. It has been well documented that a victim's preference for arrest is the strongest predictor of arrest (Buzawa & Buzawa, 2003). Police who are intent on making an arrest may urge the victim to sign a complaint against the perpetrator. The retaliation hypothesis suggests that an offender may view a victim signing a complaint against them as cooperating with police (especially if it leads to arrest). This, in turn, may lead to retaliation. Conversely, offenders may also interpret a victim's refusal to sign a complaint against them as acting on their behalf and appreciate it (Felson et.al., 2005).

There have been claims by some family violence researchers that women are as physically aggressive, or more aggressive, than men in their relationships with their spouses or male partners. The authors of *Behind Closed Doors* (Straus, Gelles, & Steinmetz, 1980) applied the Conflict Tactics scale and reported that husband abuse was a more prevalent problem than wife abuse. In a study evaluating the Conflict tactics scale, Straus (1992) examined the criticisms of the instrument, citing that feminists had been particularly critical of its use as it understated the victimization of women and overstated violence by women. He notes, albeit in an endnote, that the CTS does not indicate who originates the violence, in other words, the instrument does not distinguish between offensive and defensive violence; the instrument also does not indicate the extent to which a victim is physically injured. Straus states that when that information is obtained, it turns out that when women initiate, the injury rate is actually very low.

Barnett et al (1997) compared batterers with battered women to investigate differences in terms of frequencies, forms, outcomes, and attributions for abuse. To obtain data for abusive behavior profiles, 34 men arrested for spouse abuse and 30 women connected with a battered women's shelter completed the Relationship Abuse Questionnaire, which was a modified version of the Conflict Tactics Scale. Although significant group differences did not occur in frequencies or forms of abuse, significant gender dissimilarities occurred in outcomes of abuse, attributions for abuse, and their interactions. Men reported frightening the other significantly more often than women. The study also found that men endorsed controlling their partner as a rationale for their abuse significantly more than women. These results suggest that underlying the similar gender frequencies of abuse are statistically significant contextual gender disparities in outcomes and attributions.

Hamberger and Guse (2002) investigated the experiences and impact of intimate partner violence using a sample of 119 men and 24 women who were ordered by the court to attend abuse abatement counseling and 50 women who were seeking services from a shelter program for abused women. While court-ordered men and women expressed violent acts in a similar way, used violence with similar frequency and injurious outcome, court-ordered women initiated significantly fewer violent episodes than did men and were less likely to start the overall pattern of relationship violence. Court-ordered women were less likely than were shelter women to call police, try to escape, or acquiesce to their partners' violence. The two groups of women reported more fear, anger, and insult and less amusement when their partners were violent than did men. Court-ordered men were significantly more likely than were women to laugh at partner-initiated violence and exhibit dominating and controlling behaviors.

Jacobson et. al. (1994) studied the affect, psychophysiology, and verbal content of arguments in 60 couples with a violent husband. On the basis of self-reports of violent arguments, there were no wife behaviors that successfully suppressed husband violence once it began. The researchers found that husband violence escalated in response to nonviolent as well as violent wife behaviors. Wife violence escalated only in reaction to husband violence or emotional abuse. Furthermore, only wives were fearful during violent and nonviolent arguments.

In a retrospective study, Kalmuss (1984) found that modeling was not sex-specific providing some evidence for the observational learning aspect of social learning theory. Using a nationally representative sample of 2,143 adults, to explore the relationship between childhood family aggression and marital aggression in the next generation, she found that observing one's father hitting one's mother increases the likelihood for both sons and daughters of becoming victims as well as perpetrators of severe marital aggression. While she concluded that the results of the study indicated that the transmission of aggression across generations was not sex specific, but role specific, she also found that fathers hitting mothers was the most prevalent type of sex-specific hitting. In fact, there were too few cases of mothers hitting who were not hit by fathers to permit reliable comparisons across sexes.

Stets and Straus (1990) investigated the frequency of assault among those who date, cohabitate, and are married. Their primary research questions were:

- Are there differences in the frequency of assault across marital status groups?
- Does the severity of the assault vary by marital status?, and
- Does the partner who is violent vary by marital status?

The sample of married (n=5,005) and cohabitating couples (n=237) was from the 1985 National Family Violence Resurvey. The *Conflict Tactics Scales (CTS)* was used to measure the

incidence of both minor and severe categories of violence. The results of the study revealed that cohabitating couples were more likely to have experienced violence than those in dating or marital relationships; almost 35 out of every 100 cohabitating couples experienced a physical assault during the previous year (compared with 20 for dating couples and 15 for married couples). The results also suggested that cohabitating couples are not only at the greatest risk for violence, but also the most dangerous forms of violence of the three groups. After controlling for age, education, and occupation, the authors of the study offered suggestions for the differences between the groups in assault rates. Specifically, they addressed characteristics that might be unique to cohabitating couples when compared to dating and married couples. One explanation was that cohabitating couples may be more likely to be more isolated from their family network than dating or married couples resulting in their behavior not being as closely monitored by family members. Another suggestion was that among dating couples who are not serious, the issue of control may not be as problematic because the partners may not have felt that they had the "right" to control their partner. Married individuals may have felt they had the right to control but may also have agreed to "give in" believing they needed to make compromises for the sake of the relationship.

Stets and Pirog-Good (1987) administered a survey consisting primarily of multiple choice through open-ended questions to a random sample of 56 upper-level classes at Indiana university. The survey covered demographics, witnessing and experiencing violence in childhood, attitudes on violence and instrumentality-expressiveness, and dating information. The final sample included 505 respondents. The results provided supporting evidence that sex-specific models should be used to explain using and receiving violence. Women were more likely to receive violence suggesting that violence against women was more problematic than

violence against men in dating relationships. The results reveal that a one point increase in a man's score on the expressive scale increased the probability of using violence by 25%; apparently men who were emotional or devoted themselves completely to others possessed characteristics that were conducive for violence. Additionally, the researchers found that a one point increase in accepting violence increased the probability of using violence by 200 percent, indicating that men who view violent acts toward women as nonviolent are more likely to use violent behavior themselves. A one month increase in the length of time the man has dated increases the probability of using violence by 10 percent suggesting that violence occurs in more serious relationships. The researchers also found that adding one month to the length of the dating relationship increased the probability of receiving violence by eight percent while adding one partner decreases the probability by 81 percent. Therefore, dating relationships of longer duration and fewer partners increase the likelihood of violence occurring. Dating frequency was positively related to receiving violence; more frequent dates implied a more serious relationship and more contact hours with an individual where violence could occur. Adding one partner resulted in a 41% decline in the probability of receiving violence; the fewer the dating partners, the more likely the women will receive violence. Finally, a condition of jealousy was shown to influence women's receiving violence; adding one point to this variable resulted in a 225% increase in the probability of receiving violence; women in serious relationships who dated other men were more likely to receive violence. Women appear to be at a more elevated risk for receiving violence than males, and the likelihood increases if the relationship is defined as an intimate relationship rather than marital.

The evidence supports the following hypotheses:

H1: When an incident of domestic violence involves a victim who is an intimate partner (as opposed to a spouse), the odds of a victim not cooperating with police will increase.

and

H2: When an incident of domestic violence involves a female victim, the odds of a victim not cooperating with police will increase.

3.4.2 Incident characteristics

At first glance, it may seem counterintuitive to hypothesize that incident characteristics that indicate more serious assaults or more vulnerable victims may be predictors of victim non-cooperation with the police at the scene of the incident. However, when we couple the victim's fear of retaliation and the fact that there may very well be a history of violence that has escalated to the point where the incident at hand has been reported to police, these incident characteristics may very well be indicators of the reality in which the victim is making decisions about what actions to take in the interest of both present and future personal safety of the themselves and perhaps that of other family members.

Dugan, Nagin, and Rosenfeld (2003) evaluated the relationship between domestic violence prevention resources and intimate-partner homicide in 48 cities between 1976 and 1996. Using the FBI's Supplementary Homicide Reports (SHR) they incorporated indicators of domestic violence resources such as provisions for warrantless arrest, mandatory arrest, an index of legal consequences for violating an order of protection - contempt, misdemeanor, or felony- and an "exposure reduction" index. The dependent variable was a count of intimate-partner homicide victims within a three year period. A Poisson likelihood function was used to estimate separate panel models for 12 possible combinations of victim sex, race and marital relationship. While several types of prevention resources were associated with lower levels of intimate partner

homicide, other resources were related to higher levels of homicide, suggesting a retaliation effect. The results of the study suggested that too little exposure reduction (reducing the contact between intimate partners to reduce the opportunity for abuse and violence) in severely violent relationships may be worse than none at all. A major weakness of the study was in using only policy inputs as indicators, there was no information as to who accessed the system and how well policy was implemented. The authors cited Tjaden and Thoennes (2000) results of a national survey on violence against women that revealed more than 73% of the women who were assaulted by an intimate did not report the incident to the police; the leading reason was their belief that the police could not help. Dugan and Rosenfeld stated that their findings of increased lethality, even null findings, could indicate failures within the criminal justice and social service systems to adequately protect victims once they access services.

Felson and Messner (2000) analyzed data from the revised National Crime Victimization Survey to investigate control as a motive in intimate partner violence. The sample included 2,597 assaults involving a single unarmed offender and a single victim. Couple was a dummy variable (yes/no). The dependent variable indicated whether or not the victim was threatened before the attack and was coded dichotomously (yes/no). The researchers examined three principal independent variables; the victim-offender relationship, the victim's gender, and the offender's gender. The results revealed that the antagonists were a couple in 22.7% of the incidents, and in just under 20% of all incidents (both couple and non-couple) a male assaulted his female partner. The results of the logistic regression indicated that the odds of a threat before an assault were over 3 1/2 times greater for men who assault their female partners than for other situations represented in the model. Although the measurement of the control variable is indirect, the researchers believed that the measurement was strong enough to permit reasonable

inferences about the frequency of the control motive in one type of assault compared with other types, namely male assaults on female partners. It appears, in support of the feminist perspective, that males have a greater interest in controlling their female partners; men are also probably more likely to have the physical capabilities necessary to use violence successfully against women.

In an NIJ funded project funded done in the the Quincy District Court (QDC), which serves eastern Norfolk County, along Massachusetts' South Shore, Buzawa and Hotaling (2000) focused on male to female violence. Information was collected from multiple sources and multiple perspectives including police incident reports, victim surveys, offender criminal history data, civil restraining order data, prosecutors' office district court data, and data on study defendants' and batterer treatment programs) covering data from significant periods of time both before and after the occurrence of the incident that led to its inclusion in the sample; these data were then linked together into one coherent data file. The final sample consisted of 353 cases of which all but 3 came to the attention of the study as the result of arrest. The researchers found that one group of victims who were most likely to be deterred from future use of the justice system were those who accurately determined that they were in the greatest danger of retaliation. Seventy-one percent of the incidents involved the use of violence, and 10% of the victims in the study experienced serious injuries including broken bones, broken noses, internal injuries and loss of consciousness. An additional 27% experienced moderate injuries such as bruises and swelling. Weapons such as knives, firearms, blunt objects and motor vehicles were used in 16% of the incidents and in 70% of the incidents the victims felt that they were going to be seriously injured. More than 20% of the victims felt that they needed medical attention as a result of the incident. Additionally, the analysis of the re-offenders in this study revealed that the official data

identified 1 in 5 of the victims were re-victimized while the victim survey data revealed a re-victimization rate of more than 49%. Re-offenders were more likely to have had a weapon in the original incident, and were more likely to be involved in incidents where someone other than the victim called the police. Additionally, almost 3 out of 4 of the victims in this study had called the police on a prior occasion about the same offender. Victims reported trying a variety of self-defense tactics, but most of the time this served to increase offender violence. Even when the victims moved away from their husband or partner, there was no guarantee of safety. Less than half of the victims in this study were living with their assailant at the time of the incident, but three quarters of the attacks occurred in their homes.

The researchers also found that victims are often quite capable of assessing their own danger. The results of this study indicated that women's fears of offenders were accurate and that despite aggressive intervention by a full enforcement criminal justice system, the pattern of future offenses in many cases had not been broken. From victim accounts, almost half reported another instance of abuse or violation of a restraining order. Women who thought they would be seriously injured in the study incident were nearly 3 times more likely to be re-victimized. Women who thought they were in need of medical attention as a result of the incident were one and a half times more likely to be re-victimized. Women who described offender violence over the course of the relationship as having become more severe and frequent were more than twice as likely to be re-victimized than women who reported no discernable pattern of violence. Women in controlling relationships were almost twice as likely to be re-victimized and victims who feared serious injury were almost 3 times more likely to be re-victimized. Victims who felt that going to court was going to reduce their ability to bargain with the offender were also more likely to be re-victimized. While victims called the police for a variety of reasons other than just

arrest 16% of victims did not want arrest and victims who did not want arrest were usually the women who had not called the police.

Dugan and Apel (2005) employed a routine activity model of violent victimization by incorporating an explicit rational choice perspective on potential victims' decision making to avoid violent encounters. The study proposed that the costs associated with a violent attack and the probability of offender retaliation depended on whether the offender's targeting strategy is opportunistic (stranger victim) or deliberate (intimate victim). The offender's strategy was viewed as a function of the relational distance between the offender and victim. The researchers hypothesized that victim efforts to limit exposure to an offender may motivate a violent retaliatory response when the victim and offender are intimates as opposed to strangers. Depending on the victim's perceived risk of violence, it was hypothesized that there may not be any benefits to altering routine activities. Potential costs of change in routine activities considered by the victim were summarized as

- $\text{Probability}(\text{retaliation}) * \text{Attack costs} + \text{Resource costs}$

Potential benefits of change, a reduction in attack costs such as injury, that were associated with exposure reduction, were summarized as

- $\text{Attack costs} * (1 - \text{Exposure reduction})$

When the costs were less than the benefits, it was assumed that the victim would alter routine activities to avoid violent victimization. Attack costs included whether a weapon was involved in the incident, whether the attack led to serious injury, and whether there were others present at the time of the incident. Indicators used to measure the influence of attack costs on changes in routine activities included whether or not the victim contacted the police, and whether or not the victim sought help from non-criminal justice agency.

The hypotheses were tested using data from the National Crime Victimization Survey (1992–2000) and the results suggested that female victims were more sensitive to an offender's targeting strategy than male victims. The study revealed that the probability of violent retaliation in response to exposure reduction increased as relational distance decreased for females, but not for males. In other words, females who have a close relational distance with their perpetrators were more vulnerable to retaliatory violence. Women were almost 3 times more likely to be targeted deliberately (domestic offenders) than were men; therefore women were found to be at a higher risk of retaliatory violence if they tried to separate themselves from their intimate offenders. Relatively few results were significant in the male model. However for females, in contrast to victims of stranger violence, the researchers found if the attack led to serious injury, the wife was less likely to call the police, suggesting that the willingness of the husband to harm the wife might imply that he would harm her even further, placing the husband's actions in a wider context of control over his spouse's autonomy.

Browne (1987) conducted a study of 42 incarcerated women from 15 states who were charged with a crime in the death or serious injury of their mates. The results were later compared to those of 205 women who had been in abusive relationships, but did not take lethal action against their partners. The focus of the inquiry was the on women's actions in the context of their position as victims. Browne investigated the impact that violence and threat of violence from an intimate partner had on the victims' perceptions of danger and alternatives. Almost all of the women in the homicide group reported that resisting the violence or fighting back worsened the attack. Abused women also reported that an interruption in the violence was not expected to deter escalation of the violence. After police intervention where the abuser was told to take a walk and cool down, abused women often reported that their abusers were even more

angry once the police had departed and the violence became more severe. In the homicide group, once a pattern of aggression had been established, the assaults tended to increase in frequency and severity.

It is reasonable to assume that a perpetrator of domestic assault would prefer not to be exposed to the criminal justice system and therefore would be opposed to the victim cooperating with the police in an arrest. Based on the evidence, violence and the threat of violence are used as means of controlling the behavior of intimate partners. The evidence also suggests that threats of violence are likely to precede an actual assault, possibly indicating that the victims are at risk of retaliatory violence at an escalated level. We know that police response is incident driven while victim decision-making is contextual in nature. We also know that many domestic violence victims have experienced previous violence at the hands of the perpetrator and, when the violence escalates to some tipping point, it may result in a reported incident.

Given this information, we might expect higher levels of noncooperation among victims who are fearful of retaliation in the future at the hands of their assailant. If, indeed, in incidents involving domestic violence, perpetrators often engage in escalated violence over time and threaten retaliatory violence when exposed to the possibility of being exposed to criminal sanctioning, we would expect to see odds of victim noncooperation increase as seriousness of the incident increases and as the vulnerability of the victim increases.

The evidence further supports the following hypotheses:

H3: When an incident involves a weapon, the odds of a victim not cooperating with police at the scene of the crime will increase.

and

H4: When an incident of domestic violence involves injury to the victim, the odds of a victim not cooperating with police at the scene of the crime will increase.

In Finkelhor and Yllö's (1985) research on the issue of marital rape, the researchers discovered an enormous gap in the research; marital rape was legally nonexistent and absent in research (Yllö (1988). At the time journalists and legislators were asserting that wife rape was not serious. During the debate about criminalizing marital rape in California, one state senator asked "But if you can't rape your wife, who can you rape?" (Yllö 1988) Focusing exclusively on marital rape, Yllö and Finkelhor employed a qualitative methodology and conducted 50 unstructured, in-depth interviews with women who had indicated in intake interviews at family planning agencies, feminist health centers, and battered women's shelters that a partner had used force or the threat of force to have sex with them. They discovered three basic types of marital rape, battering rape, force-only rape, and obsessive rape. Battering rape occurred in marriages characterized by a high level of violence and the rapes were an additional element of the beatings and humiliation. Force-only rape occurred in marriages characterized as otherwise non-violent; the husband's desire for control was central and power rather than anger appeared to be the motivation. Obsessive rape was most openly sadistic. The study revealed that women's fear of their rapist husbands outlasted their marriages; the fear was deeply engrained and often generalized to other men. Some of the victims lived in fear for years during their marriages never knowing when a sexual assault might occur. Even when the husband was no longer physically present, the insecurity persisted.

Culbertson, Vik, & Kooiman, (2001) used the Safety Rating Scale and to examine the influence of sexual assault, the location of assault, the victim's relationship to perpetrator, and the impact of assault on perceived safety. Questionnaire packets that included the Safety Rating

Scale were distributed and completed by 314 female undergraduates, 55% of whom met assault criteria. Results indicated that sexually assaulted women felt less safe than those without an assault history, women assaulted in their homes reported lower perceived home safety than women assaulted in another location. As the impact of the sexual assault increased, victims' feelings of perceived safety decreased. The prior relationship of the victim to the perpetrator was related to perceived safety. Women sexually assaulted by a familiar perpetrator (e.g., previous sexual intimacy, cohabiting, or married) reported less perceived safety in the home than women assaulted by a stranger, an acquaintance, or a date.

In Browne's 1987 study, over half of the women in the comparison group (59%) reported to have been forced to have sexual intercourse on at least one occasion; 76% of the homicide group reported being raped by their mates. The homicide group reported that sexual abuse was sometimes used as a mechanism to humiliate and control. The women were least likely to reveal this kind of abuse to others making it "among the most risk-free forms of violence a man can engage in." (pg. 101) As Browne characterized it, a maximum amount of damage could be done both psychologically and physically with minimal risk of disclosure. If the assault was revealed, there was also a decreased likelihood of penalty associated with the act. In the homicide group, sexual assaults occurred relatively frequently and many times they were accompanied with other abusive acts or threats of violence.

Because domestic violence generally takes place in the private sphere of the home, the evidence suggests that a victim of domestic sexual violence, who already has a reduced perception of safety in the home, might feel exceptionally vulnerable. Considering the findings that rape in marriages was sometimes characterized by a high level of violence and were an additional element of beatings and humiliation, a victim of this type of domestic violence might

be especially cognizant and fearful of the likelihood of retaliation by the perpetrator. Additionally, where the partner's desire for control is central the threat of retaliation must be considered together with a victim's enhanced perception of vulnerability in the home suggesting the following hypothesis:

H5: When an incident of domestic violence involves a sexual assault, the odds of a victim not cooperating with police will increase.

The Dugan and Apel (2005) study (described above) also found that some costs increased the chances that a victim will take action to seek help outside the home or seek changes in the status quo. When examining the circumstances that might lead to the victim calling the police, the cost to most strongly lead to help seeking among women was having young children; victims who called the police were also more likely to leave the marriage. Although their findings supported the assertion that the decision to seek help would be less likely if the costs were high, it appears that the cost of putting one's children at risk of violence was higher than avoiding personal retaliation.

Therefore,

H6: When an incident of domestic violence involves a juvenile victim, the odds of a victim not cooperating with police will decrease.

and

H7: When an incident of domestic violence involves more than one victim, the odds of a victim not cooperating with police will decrease.

3.4.3 The influence of arrest policy

There is a developing policy consensus favoring more aggressive arrest and prosecution of all offenders. Aggressive arrest policy is partially based on the tenet that victims of domestic violence are not capable of and should not be asked to assess the future risk presented by an offender. However, in light of the evidence, it appears that the victims of domestic violence have a very good sense of the likelihood of retaliation if, in fact, criminal justice intervention occurs. As Dugan & Apel (2005) observed, victims of deliberate offenders, especially female victims of spousal violence, fear for their safety and may suspect that, given the opportunity, their offenders will retaliate; they appear to resist courses of action intended to help them. The arrest policies provide some, if only brief, protection for the victim. Additionally, as Dugan et.al (2003) concluded, victims inherently know what others have worked hard to discover – a little exposure reduction can be more harmful than none at all.

The incident characteristics predicting victim non-cooperation may be influenced by the arrest policy guiding law enforcement arrest protocol. A stricter arrest policy, one that limits both police discretion and victim agency, might increase the odds that a victim will refuse to cooperate in an attempt to prevent the arrest of the perpetrator and avoid the risk of retaliation. In other words, where law enforcement is operating under a stricter arrest policy, the odds among the predictors of victim non-cooperation will increase if the victim perceives that their reluctance to co-operate at the arrest level might result in the police not pursuing the case.

H8: When controlling for the type of arrest policy (discretionary, preferred, or mandatory), the odds of a victim not cooperating with police will increase among the predictors as restrictiveness of the dominant arrest policy increases.

4.0 ARREST POLICIES

One of the most important innovations in domestic violence cases has been the change in the common law rule (Miller 1998). Common law rule authorizes police to make warrantless arrests in misdemeanor cases only where they actually see the crime committed. Most domestic violence cases are classified as a simple assault and battery, which is a misdemeanor. Prior to the mid 1980s, police in most states could not make arrests for misdemeanors without a warrant, unless the act occurred in the officer's presence. Arrests were rarely made in domestic violence cases. This approach failed to protect the victim from abuse, and at the same time, protected the perpetrator from criminal responsibility. Most domestic violence cases are classified as a simple assault and battery, which is a misdemeanor. The societal message was that domestic violence was a private, not a criminal, matter.

In a recent evaluation of the Grants to Encourage Arrest Policies Program, funded under the Violence Against Women Act of 1994 and its reauthorization in 2000, the evaluators examined how the implementation of the Arrest Policies Program changed the criminal justice system. It was concluded that "state legislation making domestic violence a crime and providing new remedies for victims of domestic violence is largely a hodge podge of differing provisions" (Miller N., 2005). The report goes on to explain that diversity in legislation is a natural consequence of a federal system; different states do different things in different ways. The

evaluation found that problems in responding to domestic violence that are common among the states are not universally addressed by the states.

The arrest policies are intended to provide some, if only brief, protection for the victim. Part of the logic behind these policies is the assumption that the limited period of time that the batterer is away from the home may allow the victim opportunity to plan a course of action. Unlike violence between strangers, in most domestic assault cases, the victim lives with the perpetrator and cannot get away from the abuse. The aggressive arrest approach seeks to give the perpetrator a sense of the severity of the situation. Much has been written on individual laws, but systematic attention to these laws as a whole has been limited (Miller 1998).

Some argue that mandatory responses may place victims in danger. The effectiveness of mandatory arrest is not clear. The Spousal Assault Replication Program (SARP) conducted several replication studies of the original Minneapolis Domestic Violence Experiment with findings ranging from arrest having no effect to arrest producing an escalation effect (Buzawa & Buzawa, 2003). Additionally, the data suggest that recidivism is reduced in the short term, but may increase in the long term (Berk, 1993). The replication experiments did not consider the effect of decisions by prosecutors and courts following arrest and therefore did not demonstrate the effectiveness of mandatory arrest as part of a coordinated system response to domestic violence; the experiments also did not address the effect of non-arrest (Zorza, 1994). There is some agreement that actions by one part of the justice system are only effective when the system is operating as a whole (Zorza, 1994) - police making arrests, prosecutors prosecuting domestic violence cases, and courts enforcing orders and imposing sanctions for criminal convictions. Arrest communicates the message that domestic violence is a crime; a coordinated system

response sends a message from the community that domestic violence will not be tolerated, and that the criminal justice and law enforcement systems will be involved.

Researchers remind us that, in reality, we know very little about what best protects victims (Fagan, 1996; Dugan et. al.2003; Dugan & Apel, 2005). This uncertainty may be reflected in victim decision-making. While police officers continue to express frustration and confusion when domestic violence victims refuse to cooperate with efforts to investigate the incident in order to prosecute the defendant, the victim may be using their knowledge and experience to manage the situation and create an outcome that will be acceptable to them considering their own unique set of circumstances. The police have a protocol to follow, while the victim is operating under conditions of stress, fear, and sometimes panic.

Every state now permits warrantless arrests in misdemeanor domestic violence cases subject to a police officer's determination that domestic violence may have occurred, which is the common law standard used for felony cases (Miller, 1998). States have adopted a wide variety of statutory models and, as a result, new laws have proliferated, including pro-arrest and mandatory, or no-drop, prosecution policies. Some states have now enacted mandatory arrest statutes under which a police officer must make an arrest when there is evidence that some sort of violence occurred and the perpetrator and victim lived together as a couple, had a child together whether they lived together or not, or were members of the same family. The mandatory arrest laws vary considerably from state to state (Miller, 1998). Although most states have enacted legislation that strongly encourages arrests for acts of domestic violence and many mandate an arrest if certain conditions are met (Table 1).

Table 1 Domestic Violence Arrest Policies			
	Mandatory	Preferred	Discretionary
State			
Alabama			X
Alaska	X		
Arizona	X		
Arkansas		X	
California		X	
Colorado	X		
Connecticut	X		
Delaware			X
District of Columbia	X		
Florida		X	
Georgia			X
Hawaii			X
Idaho			X
Illinois			X
Indiana			X
Iowa	X		
Kansas	X		
Kentucky			X
Louisiana	X		
Maine	X		
Maryland			X
Massachusetts		X	
Michigan		X	
Minnesota			X
Mississippi	X		
Missouri	X		X
Montana		X	
Nebraska			X
Nevada	X		
New Hampshire			X
New Jersey	X		
New Mexico			X
New York	X		
North Carolina			X
North Dakota		X	
Ohio	X		
Oklahoma			X
Oregon	X		

Pennsylvania			X
Rhode Island	X		
South Carolina	X		
South Dakota	X		
Tennessee		X	
Texas			X
Utah	X		
Vermont			X
Virginia	X		
Washington	X		
West Virginia			X
Wisconsin	X		
Wyoming			X
Source: Adaption of National Institute of Justice (2002), National Evaluation of the Grants to Encourage Arrest Policies Program Final Report. US Department of Justice (http://www.ilj.org/Publications/ArrestPolicies.pdf)			

4.1.1 Mandatory Arrest Policies

Many states have enacted mandatory arrest statutes under which a police officer **must** when there is evidence that some sort of violence occurred if the perpetrator lived together as a couple, had a child together whether they lived together or not, or were members of the same family (Miller 1997). The mandatory arrest laws vary considerably from state to state (Table 2).

Table 2 Mandatory Arrest Policies		
State	Legislation	Circumstances that apply
Alaska	Alaska Statute § 18.65.530(a)	Probable cause to believe domestic violence offense committed within past 12 hours
Arizona	Ariz. Rev. Stat. Ann. § 13-3601 (B)	Domestic violence involving physical injury or use/threatened use of a deadly weapon
Colorado	Colo. Rev. Stat. § 18-6-803.6	Probable cause to believe a crime of domestic violence was committed
Connecticut	Conn. Gen. Stat. Ann. § 46b-38b (a)	Speedy information that family violence was committed in jurisdiction
District of	D.C. Code Ann. § 16-1031	Probable cause to believe an intrafamily

Columbia		offense that resulted in physical injury including pain or illness or was intended to cause reasonable fear of imminent serious physical injury or death
Iowa	Iowa Code Ann. §§ 236.12 (2)	Probable cause to believe that domestic abuse assault was committed that resulted in bodily injury, or was committed with intent to inflict serious injury, or with use or display of dangerous weapon
Kansas	Kan. Stat. Ann. § 22-2307 (b)(1)	Probable cause to believe a crime has been committed
Louisiana	La. Rev. Stat. Ann. § 46-2140 (1) (aggravated or second degree battery), (2) (danger to victim exists where assault or simple battery occurred)	Reason to believe a family or household member has been abused and (1) probable cause exists to believe that aggravated/second degree battery was committed or (2) aggravated or simple assault or simple battery committed and reasonable belief in impending danger to abused
Maine	Me. Rev. Stat. Ann. tit 19-A § 4012 (5)	Probable cause to believe there has been a violation of title 17-A, section 208 (aggravated assault statute) between members of the same family or household
Mississippi	Miss. Code Ann. § 99-3-7 (3)	Probable cause to believe that within 24 hours the offender knowingly committed a misdemeanor act of domestic violence
Nevada	Nev. Rev. Stat. § 171.137	Probable cause to believe that within 24 hours battery was committed
New Jersey	N.J. Stat. Ann. § 2C:25-21	Probable cause to believe that domestic violence has occurred and either victim shows signs of injury or probable cause that weapon was involved
New York	N.Y. Crim. Proc. Law § 140.10 (4)(c)	Probable cause to believe that a felony has been committed against a member of the same family or household or, unless victim requests otherwise, a misdemeanor family offense was committed
Ohio	Ohio Rev. Code Ann. § 2935.032 (A)(1)(a)	Reasonable cause to believe that offender committed a felonious assault
Oregon	Or. Rev. Stat. § 133.055 (2)(a)	Probable cause to believe that a felonious assault or an assault resulting in injury occurred or action has placed another to reasonably fear imminent serious bodily injury or death
Rhode Island	R.I. Gen. Laws § 12-29-3	Probable cause to believe the following: felonious assault: assault resulting in

		injury: action was intended to cause fear of imminent serious bodily injury or death
South Carolina	S.C. Code Ann. § 16-25-70	If physical injury is present and probable cause to believe person is committing or has freshly committed a misdemeanor/felony assault or battery
South Dakota	S.D. Codified Laws Ann. §§ 23A-3-2.1	Probable cause to believe that within the previous 24 hours (amended in 2001 from 4 hours) there has been an aggravated assault, an assault resulting in bodily injury, or an attempt by physical menace to place in fear of imminent serious bodily injury
Utah	Utah Code Ann. § 77-36-2.2	Probable cause to believe that an act of domestic violence was committed and there will be continued violence or evidence that the perpetrator has recently caused serious bodily injury or used a dangerous weapon
Virginia	Va. Code Ann. § 19.2-81.3	Probable cause to believe assault or battery on family or household member
Washington	Wash. Rev. Code Ann. § 10.31.100 (2)	Probable cause to believe a person 16 years or older within the previous 4 hours assaulted a family or household member and believes (1) felonious assault occurred, or (2) assault resulting in bodily injury occurred whether injury is visible or not, or (3) that any physical action has occurred which was intended to cause another person to reasonably to fear imminent serious bodily injury or death.
Wisconsin	Wis. Stat. Ann. § 968.075(3)	Reasonable cause to believe that offender committing or has committed domestic abuse and either evidence of physical injury or reasonable basis for believing continued abuse is likely
Source: Adaption of National Institute of Justice (2002), National Evaluation of the Grants to Encourage Arrest Policies Program Final Report. US Department of Justice (http://www.ilj.org/Publications/ArrestPolicies.pdf)		

The mandatory arrest policies are intended to provide some, if only brief, protection for the victim; a limited period of time that the batterer is away from the home may allow the victim time to plan a course of action. The mandatory arrest approach seeks to give the perpetrator a sense of the severity of the situation (Zorza, 1994).

4.1.2 Preferred Arrest Policies

Preferential arrest policy means that arrest is preferred solution, but an officer can exercise discretion and use other options. There are many circumstantial variations among states with this type of domestic violence arrest policy. (Table 3)

Table 3 Preferred Arrest Policies		
State	Legislation	Circumstances that apply
Arkansas	Ark. Code Ann. § 16-81-113	Preferred action when there is evidence that domestic abuse has occurred
California	Cal. Penal Code § 836	The written policies shall encourage the arrest of domestic violence offenders if there is probable cause that an offense has been committed
Florida	Fla. Stat. Ann. §741.29 (4)(b)	Arrest is the preferred response whenever a law enforcement officer determines upon probable cause that an act of domestic violence has been committed
Massachusetts	Mass. Gen. Laws Ann. ch. 209A § 6	Preferred response whenever the officer has witnessed or has probable cause to believe that a person has committed a felony, a misdemeanor involving abuse, or an assault and battery
Michigan	Mich. Stat. Ann. §§ 28.874 (1), 28.1274(3)	Arrest is preferred response when officer has probable cause to believe that domestic violence has occurred.
Montana	Mont. Code Ann. § 46-6-311 (2)(a)	Preferred response in partner or family member assault cases involving injury to the victim, use or threatened use of a weapon, or other imminent danger to the victim
North Dakota	N.D. Cent. Code § 14-07.1-10	If there is probable cause to believe that a person has committed a crime involving domestic violence, whether the offense is a felony or misdemeanor, and whether or not the crime was committed in the presence of the officer, then the law enforcement officer shall presume that arresting the person is the appropriate response
Tennessee	Tenn. Code Ann. § 36-3-619	Preferred response when there is probable cause to believe that a crime committed involving domestic abuse within of outside of the presence of the officer
Source: Adaption of National Institute of Justice (2002), National Evaluation of the Grants to Encourage Arrest Policies Program Final Report. US Department of Justice (http://www.ilj.org/Publications/ArrestPolicies.pdf)		

There are many variations in practice among states that have adopted a preferred arrest policy. In some states employing this type of arrest policy, an officer who investigates a domestic dispute is required to make a report of the incident, including visible injuries and actions or statements of the parties or witnesses; sometimes an officer must report a statement of the reasons for not making an arrest.

4.1.3 Discretionary Arrest Policies

There are 21 states whose laws provide only discretionary arrest authority which, on the surface, would seem to be the least strict policy. These states employ warrantless arrest policies which are pro-arrest policies in that they allow police to make an arrest without a warrant based on a determination that probable cause exists to believe an act of domestic violence has occurred (police discretion). Legislation in some of these states (Kentucky, Minnesota, Missouri, Nebraska, New Hampshire, New Mexico, North Carolina, Pennsylvania, Texas, and West Virginia) require arrest without a warrant if the victim has an order of protection on file (Table 4).

Table 4 Discretionary Arrest Policies			
	Domestic Violence Legislation		Violation of Protection Order Legislation
State		Mandatory	Discretionary
Alabama	Ala. Code § 15-10-3 (a)(8)		Ala. Code §§ 30-5A-4, 15-10-3 (A)(7)
Delaware	Del. Code Ann. tit. 11 § 1904		Del. Code Ann. tit. 10 § 1046
Georgia	Ga. Code Ann. § 17-4-20.1		Ga. Code Ann. §§ 16-7-2, 19-13-1 (2), 17-4-20 (a)
Hawaii	Haw. Rev. Stat. § 709-906		Haw. Rev. Stat. § 803-5
Idaho	Idaho Code § 19-603		Idaho Code § 39-6312 (2)

Illinois	725 Ilsc 5/107-2;		725 Ilsc 5/112A-26
Indiana	Ind. Code Ann. § 35-33-1-1		
Kentucky	Ky. Rev. Stat. Ann. § 431.005 (2)	Ky. Rev. Stat. Ann. § 403.760	
Maryland	Md. Crim Proc. § 2-204		Md. Fam. Law Code Ann. § 4-509 (b)
Minnesota	Minn. Stat. Ann. § 629.341	Minn. Stat. Ann. § 518B.01 Subd. 14 (e)	
Missouri	Mo. Rev. Stat. § 455.085.1	Mo. Rev. Stat. § 455.085.1 (2)	
Nebraska	Neb. Rev. Stat. § 29-404.02 (3);	Neb. Rev. Stat. § 42-928, 28-311.09 (9)	
New Hampshire	N.H. Rev. Stat. Ann. §§ 173-B:9, 594:10	N.H. Rev. Stat. Ann. § 173-B:8 (I)	
New Mexico	N.M. Stat. Ann. § 31-1-7	N.M. Stat. Ann. § 40-13-6 (c)	
North Carolina	N.C. Gen. Stat. § 15A-401 (b), (b)(2))(d)	N.C. Gen. Stat. § 50B-4.1 (b)	
Oklahoma	Okla. Stat. tit. 22 § 40.3 (B); 18		Okla. Stat. tit. 22 § 60.9
Pennsylvania	Pa. Cons. Stat. Ann. § 2711;	PA. Cons. Stat. Ann. § 6113	
Texas	Tex. Crim. Proc. Code Ann. § 14.03 (a)(4)	Tex Crim. Proc. Code Ann. § 14.03 (b) (if in presence of officer, otherwise discretionary)	
Vermont	Vt. Rules Crim. Proc. Rule 3;		Vt. Rules Crim. Proc. Rule 3
West Virginia	W. Va. Code § 48-2A-14;	W. Va. Code § 48-2A-10c (if injury);	
Wyoming	Wyo. Stat. §§ 7-20-102 (a), 35-21-107 (b)(iv).		Wyo. Stat. § 7-20-102 (b)
Source: Adaption of National Institute of Justice (2002), National Evaluation of the Grants to Encourage Arrest Policies Program Final Report. US Department of Justice (http://www.ilj.org/Publications/ArrestPolicies.pdf)			

It should be noted that in most cases, states do not always fit neatly into any one of these three general arrest categories. A few examples are

- Missouri's legislation provides discretionary arrest authority in incidents involving domestic violence. However, Mo. Rev. Stat. § 455.085.1 mandates arrest for a second domestic violence incident within 12 hours. Specifically, a law enforcement officer is required to make an arrest if police are called to the same address within 12 hours and the officer has probable cause to believe same offender has committed abuse or assault against same or other family/household member.
- California law provides for preferred arrest, but Cal. Penal Code §§ 836, 13701 requires local agencies to establish mandatory arrest policies.
- Arizona and Louisiana law mandate arrest for domestic violence where injury is seen or fear of injury occurring exists.

Ohio mandates arrest where the officer has probable cause and a preferred arrest policy where there is only a reasonable basis for arrest.

5.0 METHODS

5.1 DESCRIPTIVES

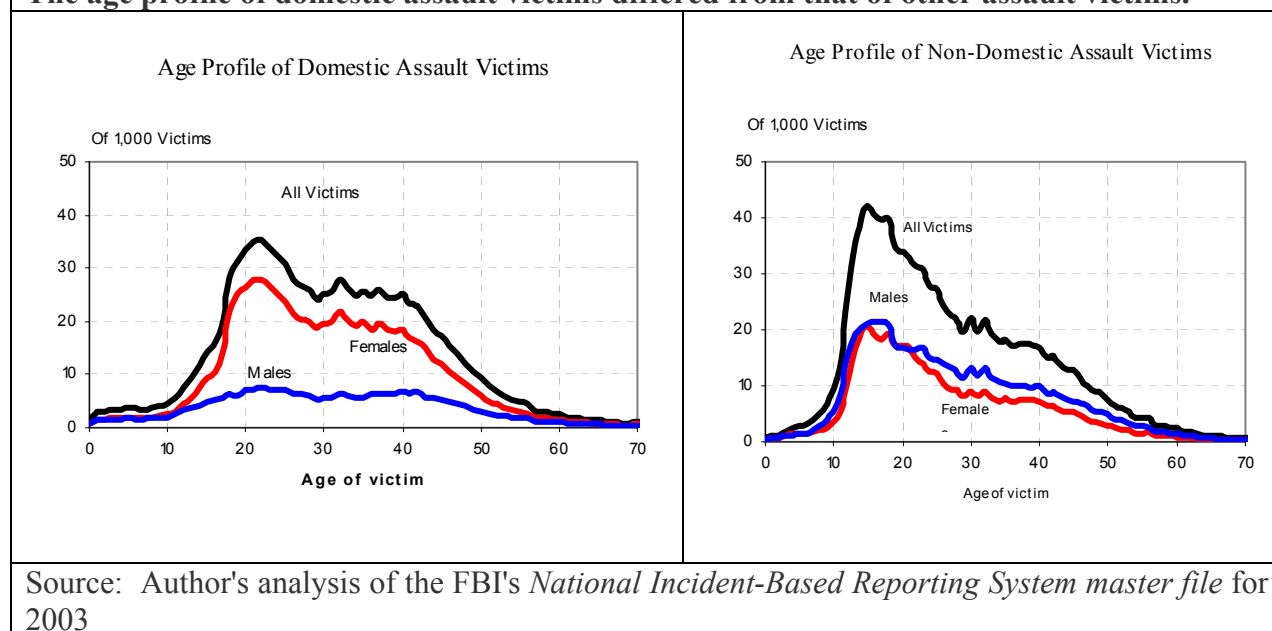
The relatively new FBI's National Incident-Based Reporting System (NIBRS) captures information on all incidents known to law enforcement and can be used to examine incident characteristics related to the likelihood that a victim will refuse to cooperate with law enforcement in an incident involving domestic violence. NIBRS can provide insights into the problem of domestic violence by providing incident profiles for specific types of domestic assault and for various kinds of victims. NIBRS data can provide descriptions of the characteristics of incidents of domestic violence that are related to the victim's refusal to cooperate with law enforcement and how these relationships vary with victim, offender and incident characteristics. The NIBRS data also support analysis to determine what incident characteristics are differentially associated with the probability of victim non-cooperation.

A preliminary examination of the NIBRS 2003 data revealed the importance of examining the victim subgroups rather than using a "one size fits all" approach (Figure 1). In the 2003 NIBRS data, the most serious assault charge was simple assault in 84.24% of all domestic assaults cleared by law enforcement. Incidents of aggravated assault followed with 12.96%, while incidents of sexual assault were far less frequently reported (2.80%). Overall, more than 60% of the victims of these crimes were older than 25 years of age with more than one quarter

(26.50%) between the ages of 25 and 34. A similar proportion (22.93%) of victims were between the ages of 18 and 24. More than one third (38.25%) were 35 years of age and older. The remainder of the victims (12.32%) was under the age of 18.

Figure 1 Age Profiles of Assault Victims

The age profile of domestic assault victims differed from that of other assault victims.



The age profile of domestic assault victims varied with the nature of the crime. While persons under the age of 18 were the large majority (79.03%) of the victims of sexual assault, persons over the age of 18 were the victims in 87.95% of the aggravated assaults and 89.85% of the incidents where simple assault was the most serious charge. Children between the ages of 12 and 17 were about 7.28% of all domestic aggravated assault victims and 7.17% of all domestic simple assault victims.

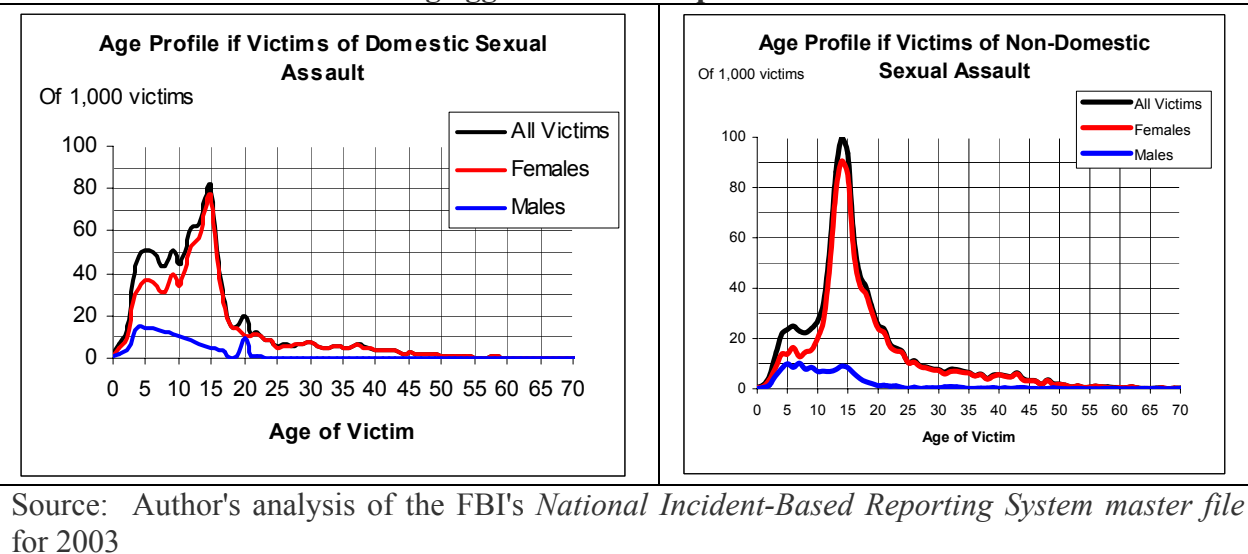
Although incidents of domestic violence having sexual assault as the most serious charge involves the smallest proportion (2.80%) of the victims of domestic assault incidents, the age profile of the victims involved in these incidents was very different from those that involved simple and aggravated assault. The majority of these victims was under the age of 18 at the time

of the crime (79.03%). In fact, 64.20% of all victims of sexual assault in the domestic assault incidents reported to law enforcement were under age 15; more than one of every 10 (15.71%) of all domestic sexual assault victims reported to law enforcement agencies being under age 6.

The victim age distribution differed with the nature of the assault (Figure 2). The detailed age distribution of the victims of incidents involving sexual assault emphasizes the high proportion of young victims. The single age with the greatest proportion of sexual assault victims reported to law enforcement was age 15. There were more victims in each individual age group between 3 and 17 than in any individual adult age group, and more victims age 2 than in any age group.

Figure 2 Age and Sex Profiles of Sexual Assault Victims

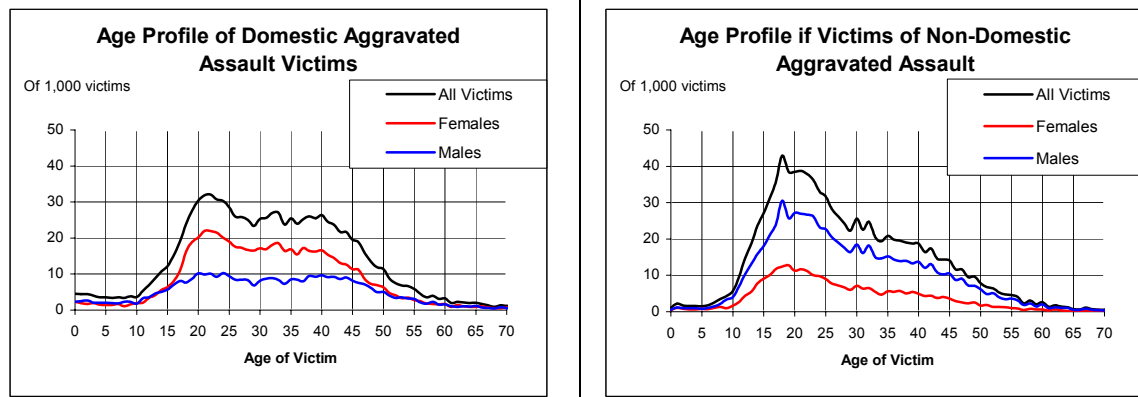
The victim age distribution of incidents involving sexual assault differed considerably from that of incidents involving aggravated or simple assault.



The risk of being the victim of aggravated assault increased dramatically from age 10 to age 20, where it peaked and then dropped somewhat through age 40 and then declined steadily as victim age increased. Although the pattern was similar for males and females, the risk of being a victim was consistently higher for females through the age of 50 (Figure 3).

Figure 3 Age and Sex Profiles of Aggravated Assault Victims

The age and sex profile of domestic aggravated assault victims differed from that of non-domestic aggravated assault victims.

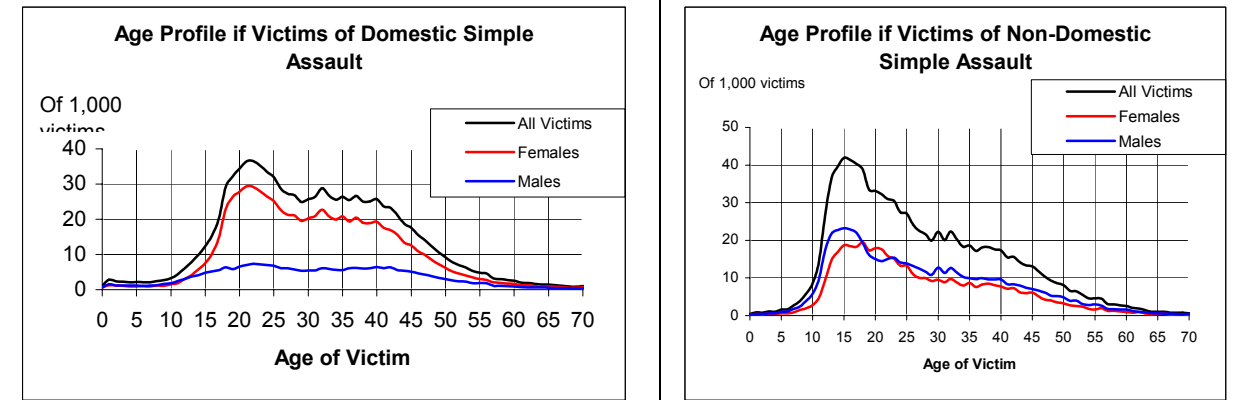


Source: Author's analysis of the FBI's *National Incident-Based Reporting System master file* for 2003

The age profile of the victims involved in domestic simple assault incidents was very similar to those that involved aggravated assault. The risk of being the victim of simple assault also increased dramatically, although not as sharply, from age 10 to age 20, where it peaked. For females, it dropped from that peak fairly steadily as victim age increased, but not as quickly as it did for domestic aggravated assault. For males, the risk of being a victim of domestic simple assault also increased through age 20, hovered at about the same level through age 40 and then steadily dropped. The risk of being a victim of simple assault was consistently higher for females in incidents involving domestic violence.

Figure 4 Age and Sex Profiles of Simple Assault Victims

Unlike their counterparts in non-domestic assault incidents, after age 12, females were much more likely than males to be victims of simple assault in incidents involving domestic violence.



Source: Author's analysis of the FBI's *National Incident-Based Reporting System master file* for 2003

This concurs with the findings in a recent publication by the Bureau of Justice Statistics (BJS) that highlights many findings using several data sets providing snapshots of family violence at different stages in the administration of justice (Catalano, 2006). Some of the highlights of the BJS (2005) study that are comparable to the descriptive analysis of the NIBRS data include:

- The majority of family violence victims (73%) were female.
- The majority of the family violence incidents involved simple assault.
- About 75% of the offenders were male.
- Most family violence victims were white.

The BJS report also indicates that approximately 60% of the family violence victimizations were reported to police and the female reporting rate was not significantly greater than the male rate. The most common reason cited for not reporting was that the incident was a private matter. A little over 1/3 of the incidents (36%) that were reported to police resulted in arrest.

If a victim chooses not to cooperate at the scene of the incident, the police can clear the incident by exceptional means - without a charge. While this could be termed rare, deciding not to do anything may reflect a host of factors that figure into police decision making. Police decide who will and who will not be charged. They act as the front line in screening cases in and out of the criminal justice system. Whether and to what extent a victim's reluctance to cooperate or press charges against an abuser are issues that need to be explored. A victim's reluctance to cooperate at the arrest level may result in the police not pursuing the case at all. At this point we simply do not know how frequently this occurs. The "system" will never have the opportunity to address the problem and the victims become "invisible".

In an effort to gain an understanding of these "invisible" victims, this study focused on:

- Examining what extralegal factors predicted the likelihood of victim non-cooperation in incidents involving domestic violence, and
- Examining whether the type of arrest policy served to influence the extralegal factors that predict the likelihood of victim non-cooperation in incidents involving domestic violence when the nature of the domestic assault is considered.

This study used NIBRS data to explore whether there is evidence contained in the incident level data reported by law enforcement that would reliably predict whether a victim will be unwilling to cooperate when law enforcement responds to an incident of domestic violence. We know from the evidence that police response is incident driven while victim decision-making is contextual in nature. We also know that many domestic violence victims have experienced previous violence at the hands of the perpetrator and, when the violence escalates to some tipping point, it may result in the incident being reported to the police. While it may seem

counterintuitive to hypothesize that incident characteristics indicating more serious assaults or more vulnerable victims may be predictors of victim non-cooperation with the police at the scene of the incident when we couple the victim's fear of retaliation and the fact that there may very well be a history of violence that has escalated to the point where the incident at hand has been reported to police, these incident characteristics may very well be indicators of the reality in which the victim is making decisions about what actions to take in the interest of present and future safety for themselves and members of their family.

5.3 THE DATA

Historically, traditional arrest statistics (the FBI's Uniform Crime Reports) have only reported aggregate counts and could not be used to assess the intersection of individual incident characteristics such as victim demographics (age, sex, race). Thus, very little information existed about the victims in domestic violence incidents who refuse to cooperate with the police. However, the UCR's relatively new National Incident-Based Reporting System (NIBRS) gives us detailed descriptions of domestic assaults reported by participating law enforcement agencies and how they were cleared. The NIBRS data can provide a profile of the characteristics of domestic violence crimes that were reported to law enforcement including the demographics of the victims (characteristics of victim population subgroups) and the characteristics that these victims attribute to the offender(s) and the incidents. These data also include law enforcement's assessment of the relationship between the offender and the victim (parents, children, siblings, other family members and intimate partners), the nature of the offense, the location of the crime, the time that it occurred, the weapons involved, the degree of physical injury to the victim, and

the method of clearance (e.g., arrest, victim's refusal to cooperate). It is now possible to examine the incident characteristic to determine if any of these characteristics contribute to the increased likelihood that a victim will refuse to cooperate with law enforcement.

The data for this study came from the 2003 National Incident Based Reporting System (NIBRS) master files compiled and distributed by the FBI. The master files contain information on all incidents that occurred in the certified jurisdictions during that calendar year and all clearances resulting from these incidents that occurred as of December 31st of 2004. Incidents were selected in which the most serious offense was a domestic assault, that is, the victim/offender relationship indicated that the assault was a domestic assault. Assault offenses are contained in the Group A category of offenses for which extensive data are collected in NIBRS (Appendix 1). In 2003 the NIBRS data contained detailed crime information that law enforcement agencies in 24 states and the District of Columbia submitted to the FBI's system describing incidents reported to them. Data for this study came from law enforcement agencies in Arkansas, Colorado, Connecticut, Delaware, District of Columbia, Idaho, Iowa, Kansas, Kentucky, Louisiana, Massachusetts, Michigan, Nebraska, New Hampshire, North Dakota, Ohio, Oregon, South Carolina, South Dakota, Tennessee, Texas, Utah, Vermont, Virginia, and West Virginia (Appendix 2).

NIBRS instructs law enforcement agencies to record a set of characteristics for each incident. These elements include:

- ◆ the age, sex, and race of the victim(s),
- ◆ the offense(s) involved,
- ◆ the date of the incident,
- ◆ the incident location,

- ◆ the age, sex, and race of the offender(s),
- ◆ the victim-offender relationship(s),
- ◆ the victim's level of injury,
- ◆ what weapons were used,
- ◆ the clearance code

The original hierarchical file was transformed into a victim-level file - one record for each victim in each incident. Each report summarized the victim's perceptions of the offender's identifying characteristics, the victim-offender relationship, the number of offenders in the incident, the presence of a weapon, where the incident occurred, the number of victims in the incident, individual victim characteristics, victim injury, and whether or not the victim refused to cooperate. Each NIBRS record captured the victims' perceptions of the demographic characteristics of the offender, the number of offenders in the incident, the presence of a weapon, the incident location, the number of victims in the incident, the demographics of the victim(s), the most serious injury sustained by any victim, the relationship between the offender and the victim, and how the incident was cleared. For this analysis, when an incident had more than one offender, the analysis focused on the demographic characteristics of the first-listed offender.

The incident characteristics were dichotomized as follows:

- ◆ Did the victim refuse to cooperate? (Yes, No)
- ◆ Number of victims (One, More than one)
- ◆ Number of offenders (One, More than one)
- ◆ Location of incident (Residence Residence/home, Nonresidence - Field/woods, Highway/road/alley/Lake/waterway; Inside -Air/bus/train terminal, Bank/savings and loan, Bar/nightclub, Church/synagogue/temple, Commercial/office building, Construction site, Convenience store, Department/discount store, Drug store/dr.s

office/hospital, Government/public building, Grocery/supermarket, Hotel/motel/etc., Jail/prison, Liquor store, Parking lot/garage, Rental storage facility, Restaurant, School/college, Service/gas station, Speciality store)

- ◆ Most serious weapon (Personal or none - Personal weapons (hands, feet, teeth, etc.); Non-Personnel - Firearm (type not stated), Handgun, Rifle, Shotgun, Other firearm, Knife/cutting instrument, Blunt object (club, hammer, etc.), Motor vehicle, Poison (including gas) Explosives, Fire/incendiary device, Drugs/narcotics/sleeping pills, Asphyxiation, Other)
- ◆ Victim age (Juvenile -persons under 18, Adult)
- ◆ Victim sex (Female, Male)
- ◆ Victim injured? (No, Yes)
- ◆ Offender age (Adult, Juvenile)
- ◆ Offender sex (Female, Male)
- ◆ Did the incident involve a sexual assault? (No, Yes)

Additionally, the victim's domestic relationship to the offender was also characterized as family (*spouse, common-law spouse, parent, sibling, child, grandparent, grandchild, in-law, stepparent, stepchild, stepsibling, other family member*) or intimate (*boyfriend, girlfriend, child of boyfriend, child of girlfriend, homosexual relationship, ex-spouse*).

It is important to note that participation in NIBRS by all local jurisdictions does not occur in all states (Appendix 2). While there is no way to assess the national representativeness of the sample, the number of cleared domestic assault victimizations in the 2003 NIBRS sample is very large and does represent a census for the reporting jurisdictions contained in the file. Therefore, accepting the inherent qualifications associated with any analysis of NIBRS data, the number of reports and the detailed information available on each incident provides a unique opportunity to study the victims of domestic assault who refuse to cooperate with police the scene of the incident.

5.4

ANALYSIS

This study used logistic regression to determine whether there is evidence contained in the incident data reported by law enforcement that would reliably predict that a victim would be unwilling to cooperate with law enforcement when they respond to an incident of domestic violence and whether that evidence differs when we consider what kind of arrest policy drives law enforcement policy.

5.4.1 Dependent Variable

For purposes of the analysis, the variables were dichotomized. The dependent variable, victim non-cooperation, was expressed as a choice between two possibilities with value codes of either 0 or 1 assigned to each possibility. In domestic assault cases that were cleared, the incidents in which law enforcement used the exceptional clearance code "victim refused to cooperate" were assigned a value of 1. Domestic assaults that were cleared either by arrest or by using other exceptional means were assigned a value of 0.

It is important to acknowledge that there are problems with measuring domestic violence incidents across multiple law enforcement jurisdictions. However, NIBRS data allows for considerable consistency because it routinely collects information on the relationship between the victim and the offender in reported crimes (Buzawa and Buzawa, 2003).

This study used a definition of domestic relationships that included parents, children, siblings, other family members (such as cousins, grandparents), and intimate partners (current and former spouses and current boy/girlfriends, including homosexual relationships). Definitions of domestic violence that focus solely on intimate partners to the exclusion of parents, siblings, and other family members may overlook much of the violence perpetrated by

offenders against persons linked to them by close relationships. Therefore, the victims treated in this study as having a domestic relationship with their offenders included both intimate partners and other persons connected biologically or by marriage, including: child (or step-child); parent (or step-parent); sibling (or step-sibling); and other family members (grandparent, grandchild, cousin, aunt, uncle, or in-law).

Domestic assaults included sexual assaults (forcible rape, forcible sodomy, sexual assault with an object, and forcible fondling), aggravated assault, and simple assault (including intimidation). The Uniform Crime Reporting (UCR) Program defines aggravated assault as an unlawful attack by one person upon another for the purpose of inflicting severe or aggravated bodily injury. The Program further specifies that this type of assault is usually accompanied by the use of a weapon or by other means likely to produce death or great bodily harm. Attempted aggravated assault that involves the display of—or threat to use—a gun, knife, or other weapon is included in this crime category because serious personal injury would likely result if the assault were completed. Murder attempts are classified as aggravated assault. Simple assaults are limited to the use of physical force (no weapon) and result in little or no injury to the victim. Although abuse within families takes many forms, such as emotional abuse, economic abuse, and stalking, the focus of this study was on physical assault or the threat of assault.

5.4.2 Independent Variables

The situational characteristics of domestic violence incidents that were considered in these analyses included victim demographics, offender demographics, and incident characteristics. Specifically, the variables included in the analysis were offender age, offender sex, victim age, victim sex, the location of the crime, whether or not a weapon was involved, whether or not the victim was injured, as well as the victim's relationship to the offender.

Although this set of characteristics is not exhaustive, it is a fairly comprehensive set of predictors and is supported by the data.

Neither offender race nor victim race were included as attributes in this analysis. An examination of the reporting agencies contained in the 2003 NIBRS data revealed that a very small proportion of the sample comes from cities with a population of 250,000 or more (10.33%), while more than one-third (35.5%) came from cities with under 50,000 population. Additionally, only 5 states had 100% of their law enforcement agencies reporting (Appendix 2). The absence of major metropolitan areas in these data may make race more of an indicator of which law enforcement agencies are included in the sample rather than an extralegal predictor of victim non-cooperation with police in incidents of domestic violence.

The possible correlation between victim non-cooperation and incident characteristics were further explored within each arrest policy grouping by developing separate logistic regression equations for each of the reporting NIBRS states. When examining the states on an individual basis, there were instances where expected frequencies less than 5 occurred in the contingency tables generated by crossing the dependent variable (victim non-cooperation) with each of the independent variables resulting in high parameter estimates and standard errors. When this occurred, there were two choices; either increase the number of cases or eliminate one or more of the predictors (Tabachnick, 2001; Allison, 2002). For the state level analysis, it was impossible to increase the number of cases as the data file represents a census for each state's reporting jurisdictions. The predictors with the low expected frequencies were, therefore, deleted from the logistic regression equation at the state level. For the policy level analysis, the number of cases was always sufficient because each policy grouping was created by combining all of the states with a similar arrest policy into one of the three arrest policy groups –

discretionary, preferred, or mandatory – and then performing a logistic regression at the policy group level.

5.4.3 Contextual Variables

The core theoretical variable of interest at the organizational level was the type of arrest policy that existed for domestic violence cases. As previously stated, every state now has domestic violence arrest policies, and although these laws vary from state to state, they can be generally classified as mandatory, preferred, or discretionary policies. States in the NIBRS data were assigned to one of the three general categories of domestic violence arrest policy according to the domestic violence arrest policy that existed in their state.

As was previously noted, not all states fit neatly into one category when considering the entire range of conditions that describe domestic violence incidents. Therefore, each state was assigned to the cluster characterized by the most severe arrest action that could be taken on an initial response by law enforcement to an incident involving domestic violence.

For example, Missouri's legislation provides discretionary arrest authority in incidents involving domestic violence but mandates arrest for a second domestic violence incident within 12 hours. Since the arrest policy for the initial response to an incident of domestic violence is discretionary, Missouri would be among the states in the "discretionary" cluster.

5.5 ANALYSIS STRATEGY

Each NIBRS record summarizes the victims' perceptions of the demographic characteristics of the offender(s), the number of victims in the incident, the number of offenders in the incident, the incident location, the presence of a weapon, the demographics of the victim(s), the most serious injury sustained by any victim, the closest relationship between the offender and victim and how the incident was cleared by police. For the logistic regression analyses, when an incident had more than one offender, offender demographics were based on the characteristics of the first-listed offender. The incident characteristics were dichotomized as follows:

- ◆ Number of offenders (One; More than one)
- ◆ Number of victims (One; More than one)
- ◆ Location of incident (residence, non-residence)
- ◆ Most serious weapon involved (Personal-hands, feet; Non-personal-firearms, knives, clubs, etc.)
- ◆ Offender age (Under age 18; Adult)
- ◆ Offender sex (Male; Female)
- ◆ Were any victims injured? (No; Yes)
- ◆ Victim age (Under age 18, Adult)
- ◆ Victim sex (Male; Female)
- ◆ Did the victim refuse to cooperate? (No; Yes)
- ◆ Did the incident involve a sexual assault? (No, Yes)

The victims treated in this study as having a domestic relationship with their offenders include both intimate partners and other persons connected biologically or by marriage, including: child (or step-child); parent (or step-parent); sibling (or step-sibling); and other family members (grandparent, grandchild, cousin, aunt, uncle, or in-law). Nearly all domestic violence arrest laws contain provisions that stipulate what the victim/offender relationship must be in order for the arrest policy to apply. These provisions vary a great deal among the states within each of the three general arrest policy groupings. Therefore analyses were conducted both generally as well as in the context of the victim's relationship to the offender (family versus intimate).

States represented in the 2003 NIBRS data were assigned to one of the three general categories of domestic violence arrest policy – mandatory, preferred, or discretionary - according to the domestic violence arrest policy that exists in their state. Law enforcement agencies represented in the ‘mandatory’ arrest policy cluster come from Colorado, Connecticut, Iowa, Kansas, Louisiana, Ohio, Oregon, South Carolina, Utah, Virginia, and the District of Columbia. The ‘preferred’ arrest policy cluster includes law enforcement agencies from Arkansas, Massachusetts, Michigan, North Dakota, and Tennessee. The ‘discretionary’ arrest policy cluster consists of reporting law enforcement agencies from Delaware, Idaho, Kentucky, Nebraska, New Hampshire, South Dakota, Texas, Vermont, and West Virginia.

Since there were no specific hypotheses about the order or importance of predictor variables, a direct logistic regression was performed allowing the evaluation of the contribution made by each predictor over and above that of other predictors (Tabachnick, 2001). The logistic regression was used to determine which independent variables were predictors of a victim not cooperating with police in an incident involving domestic violence while controlling first for

type of arrest policy and additionally for the combination of arrest policy and type of domestic assault.

The results of the analyses are presented, specifically discussing whether a victim's not cooperating with police in a domestic violence incident can be reliably predicted from the knowledge of the number of offenders involved in the incident, the number of victims involved in the incident, location of incident, most serious weapon involved,, the age of the offender, the sex of the offender, victims injury, victim age, and victim sex.

6.0 ANALYSIS

6.1 Data Screening

Although the sample of law enforcement agencies represented by the NIBRS data might not necessarily be nationally representative, the 2003 NIBRS data did yield a large sample of assault victims. The initial sample of 417,744 victims included 331,944 simple assault victims, 68,114 aggravated assault victims, and 17,636 victims of sexual assault. The District of Columbia (n=202) was removed completely from the analysis due to severe underreporting and missing characteristics.

Of the remaining 417,542 victim records 14,436 (3.46%) were excluded from the analysis because at least one of the key characteristics was missing (Allison, 2002). A comparison of records that were excluded with those that were included in the analysis found no substantial differences in incident attributes. The final base for the analysis, after incomplete records were excluded contained information for 403,106 assault victims - 233,063 domestic assault victims and 170,043 non-domestic assault victims.

6.2 OVERALL

6.2.1 Descriptives

The UCR Program considers a crime to be cleared when agencies make an arrest or there is evidence to support that the investigation will never lead to an arrest because of exceptional means (circumstances beyond the control of law enforcement). The UCR program's NIBRS data captures information on both the arrests associated with the incident as well as five circumstances of exceptional clearances, which include death of the offender, prosecution declined, extradition denied, victim refused to cooperate, and the offender was a juvenile and not taken into custody.

Overall, as shown in Table 5, arrest was the most likely means of clearing an incident of assault (76.1%) among all types of victims followed by the victim refusing to cooperate (12.6%). The highest proportion of cleared incidents of assault in which the victim refused to cooperate with police was for those involving acquaintances (16.7%), followed by intimates (11.4%), and then strangers (10.5%). The likelihood of an assault incident being cleared because the victim refused to cooperate with police was lowest among family victims (9.9%).

Table 5 Assault Clearance Methods by Type of Victim

Clearance code	Victims (%)				
	All	Family	Intimate	Acquaintance	Stranger
Total	(n=403,106)	(n=146,830)	(n = 86,233)	(n = 138,453)	(n = 31,590)
Prosecution declined	10.3%	8.9%	9.0%	13.0%	8.3%
Extradition declined	0.1	0.1	0.0	0.1	0.1
Victim refused to cooperate	12.6	9.9	11.4	16.7	10.5

Juvenile/no custody	0.9	0.6	0.2	1.8	0.7
Arrest	76.1	80.6	79.2	68.4	80.4

Among all incidents of sexual assault, 11.9% of incidents were cleared exceptionally because the victim refused to cooperate; the proportion was higher for intimates (15.6%), strangers (14.7%) and acquaintances (13.6%), than for victims who were family members (7.2%). In each of the assault offense categories and in the total, arrest was the most frequent means of clearing an incident (Table 6). However, there were substantial differences in the likelihood of arrest among the offenses; the likelihood of arrest for incidents involving sexual assault (64.3%) is lower than those involving simple (74.9%) or aggravated (85.2%) assaults. It should be noted that this particular category of assault has higher proportions of being cleared due to prosecution being declined than the victim refusing to cooperate with police; this is not true among incidents of simple and aggravated assault.

Table 6 Assault Clearance Methods by Victim Type and Type of Assault

Clearance code	Victims (%)				
	All	Family	Intimate	Acquaintance	Stranger
Sex assault	(n = 16,742)	(n = 4,963)	(n = 1,349)	(n = 9,377)	(n = 1,053)
Prosecution declined	22.1%	22.4%	25.9%	22.0%	16.2%
Extradition declined	0.2	0.4	0.2	0.2	0.0
Victim refused to cooperate	11.9	7.2	15.6	13.6	14.7
Juvenile/no custody	1.5	1.5	0.7	1.7	0.6
Arrest	64.3	68.6	57.6	62.6	68.5
Aggravated assault	(n = 64,168)	(n = 18,774)	(n = 10,879)	(n = 25,398)	(n = 9,117)
Prosecution declined	5.8%	4.8%	4.8%	7.2%	5.3%
Extradition declined	0.0	0.0	0.0	0.0	0.1
Victim refused to cooperate	8.4	6.6	7.1	10.8	7.0

Juvenile/no custody	0.5	0.4	0.3	0.8	0.4
Arrest	85.2	88.1	87.8	81.1	87.3
Simple assault	(n= 322,196)	(n = 123,093)	(n = 74,005)	(n = 103,678)	(n = 21,420)
Prosecution declined	10.6%	8.9%	9.4%	13.7%	9.2%
Extradition declined	0.1	0.1	0.0	0.1	0.1
Victim refused to cooperate	13.5	10.5	12.0	18.4	11.8
Juvenile/no custody	1.0	0.6	0.2	2.1	0.9
Arrest	74.9	79.9	78.4	65.8	78.1

Among all incidents of aggravated assault, 8.4% of incidents were cleared exceptionally because the victim refused to cooperate; the proportion was highest for acquaintances (10.8%), followed by intimates (7.1%) and strangers (7.0%); victims who were family members had the lowest proportion (6.6%).

Incidents of simple assault showed the highest likelihood (13.5%) of being cleared exceptionally because the victim refused to cooperate among the assault offense categories. The proportion of simple assault victims refusing to cooperate with police was highest for acquaintances (18.4%), followed by intimates (12.0%) and strangers (11.8%); victims who were family members had the lowest proportion (10.5%).

6.2.2 Logistic Regression

Because incidents involving family victims differed from those involving intimates in several respects, a simple cross-tabular comparison of differential likelihoods of non-cooperation for family victims and victims defined as intimates may distort the actual influence of a victim's relationship to the offender on the likelihood of non-cooperation. Therefore a logistic regression

was performed to study the effects of victim-offender relationship while controlling for other incident characteristics.

The logistic regression found a significant difference in the likelihood of non-cooperation for family and intimate victims (Table 7). The odds of a victim refusing to cooperate with police were about 14% greater if the victim was an intimate partner than if the victim was a family member.

Table 7 Logistic Regression to Predict the Non-cooperation of All Domestic Assault Victims					
Dichotomized Independent Variable	Value coded '0' (% Refused)	Value coded '1' (%Refused)	Estimated B	Odds Ratio	
Number of offenders	One (9.3)	More than one (13.8)	.581	1.787	***
Number of victims	One (10.0)	More than one (9.5)	-.453	0.635	***
Location of incident	Residence (9.8)	Nonresidence (10.4)	.083	1.086	***
Most serious weapon	Personal (10.2)	Non-Personal (8.2)	-.208	0.812	***
Offender age	Juvenile (7.8)	Adult (10.2)	.245	1.277	***
Offender sex	Male (9.6)	Female (10.8)	.043	1.044	*
Victim injured?	No (13.2)	Yes (6.5)	-.840	0.432	***
Victim sex	Male (10.4)	Female (9.7)	-.055	0.947	**
Victim age	Juvenile (6.6)	Adult (10.5)	.346	1.413	***
Sexual assault?	No (10.0)	Yes (7.2)	-.134	0.875	**
Number of offenses?	One (10.0)	More than one (6.8)	-.321	0.726	***
Victim/offender relationship	Family (9.9)	Intimate (11.4)	.133	1.142	***
Model Chi-square	4775.399 **				
12 df p<0.000					
N = 233,063					
* p ≤ .05					
** p ≤ .01					
*** p ≤ .001					

Other incident characteristics also substantially affected the likelihood of non-cooperation. If more than one offender was involved, the odds of victim non-cooperation were about 79%

greater than the odds of victim non-cooperation in a single-offender incident. However, if more than one victim was involved, the odds of non-cooperation decreased about 57%. If the incident took place in a location other than a residence, the odds of non-cooperation increased about 9%. The odds of victim non-cooperation increased if the offender was an adult (28%), if the victim was an adult (41%), if the offender was female (4%) and if the victim was male (6%). If the victim was not injured, the odds of non-cooperation more than doubled (131%) and if the incident involved more than one offense, the odds decreased 38%. The odds of victim non-cooperation decreased 14% if the assault was a sexual assault and 23% if a weapon was involved in the incident.

Because the logistic regression found a significant difference in the likelihood of non-cooperation for family and intimate victims, logistic regression equations were developed separately for family (Table 8) and intimate domestic assault victims (Table 9) to determine whether incident characteristics affecting likelihood of non-cooperation differed for these two groups. Some of the incident characteristics that significantly affected the odds of victim non-cooperation were the same for both groups. If more than one offender was involved, the odds of victim non-cooperation more than 100% greater for family victims and more than 31% greater for intimate victims than the odds of victim non-cooperation in a single-offender incident. If more than one victim was involved, the odds of non-cooperation decreased about 58% for family victims and 45% for intimates. The odds of non-cooperation increased 7% for family victims when the offender was female and 23% for victims who were intimates and if the incident involved more than one offense, the odds of non-cooperation increased 61% for family victims and 25% for intimates. If the incident involved a weapon, the odds of victim non-cooperation increased 25% for family victims and 20% for intimates.

Some of the incident characteristics that were significant for both groups affected the odds of victim non-cooperation differently. Among incidents involving family members as victims, the odds of victim non-cooperation increased if the offender was an adult (36%) and if the victim was male (11%). For incidents involving victims who were intimates, the odds decreased 22% if the offender was an adult and 26% if the victim was male.

Table 8 Logistic Regression to Predict the Non-cooperation of All Family Domestic Assault

Victims

Dichotomized Independent Variable	Value coded '0' (% Refused)	Value coded '1' (%Refused)	Estimated B	Odds Ratio	
Number of offenders	One (9.3)	More than one (13.8)	.722	2.059	***
Number of victims	One (10.0)	More than one (9.5)	-.461	0.631	***
Location of incident	Residence(9.8)	Nonresidence (10.4)	.025	1.025	ns
Most serious weapon	Personal (10.2)	Non-Personal (8.2)	-.224	0.799	***
Offender age	Juvenile (7.8)	Adult (10.2)	.307	1.359	***
Offender sex	Male (9.6)	Female (10.8)	.064	1.066	**
Victim injured?	No (13.2)	Yes (6.5)	-.844	0.430	***
Victim sex	Male (10.4)	Female (9.7)	-.105	0.901	***
Victim age	Juvenile (6.6)	Adult (10.5)	.444	1.559	***
Sexual assault?	No (10.0)	Yes (7.2)	-.246	0.782	***
Number of offenses?	One (10.0)	More than one (6.8)	-.478	0.620	***

Model Chi-square 3276.877**

11 df p<0.000

N = 146,830

* p ≤ .05

** p ≤ .01

*** p ≤ .001

Victim sex and whether or not the assault was a sexual assault were significantly correlated with the probability of non-cooperation for family victims and not for intimates. The odds of non-cooperation among family victims increased 56% if the victim was an adult, and decreased 28% if the assault was a sexual assault.

Table 9 Logistic Regression to Predict the Non-cooperation of All Intimate Domestic**Assault Victims**

Dichotomized Independent Variable	Value coded '0' (% Refused)	Value coded '1' (%Refused)	Estimated B	Odds Ratio	
Number of offenders	One (11.4)	More than one (11.7)	.274	1.315	***
Number of victims	One (11.7)	More than one (10.3)	-.370	0.691	***
Location of incident	Residence(11.1)	Nonresidence (12.6)	.125	1.133	***
Most serious weapon	Personal (11.7)	Non-Personal (9.5)	-.179	0.836	**.*
Offender age	Juvenile (14.5)	Adult (11.4)	-.201	0.818	**
Offender sex	Male (11.4)	Female (11.5)	.233	1.262	**
Victim injured?	No (16.1)	Yes (7.7)	-.839	0.432	***
Victim sex	Male (11.3)	Female (11.5)	.206	1.229	**
Victim age	Juvenile (12.1)	Adult (11.4)	.067	1.069	ns
Sexual assault?	No (11.4)	Yes (15.6)	.114	1.121	ns
Number of offenses?	One (11.5)	More than one (9.9)	-.225	0.798	***

Model Chi-square 1654.818 **

11 df p<0.000

N = 86,233

* p ≤ .05

** p ≤ .01

*** p ≤ .001

The location of the incident was correlated with the probability of non-cooperation for domestic assault victims who were intimates but not for family victims; if the incident took place in a location other than a residence, the odds of non-cooperation increased about 13% for intimates.

6.3

DISCRETIONARY ARREST POLICIES

6.3.1 Descriptives

Within the discretionary arrest policy group (Table 10), the highest proportion of cleared incidents of assault in which the victim refused to cooperate with police was for those involving acquaintances (19.5%), followed by intimates (17.2%), and then family (15.6%). The likelihood of an assault incident being cleared because the victim refused to cooperate with police was lowest for strangers (13.4%). Overall in the group of jurisdictions reporting from the states having discretionary arrest policies, arrest was the most likely means of clearing an incident of assault among all types of victims.

Table 10 Assault Clearance Methods by Type of Victim - Discretionary Arrest Policies

Clearance code	Victims (%)				
	All (n = 65,199)	Family (n = 24,159)	Intimate (n = 13,059)	Acquaintance (n = 22,902)	Stranger (n = 5,079)
Prosecution declined	9.0%	8.9%	7.2%	10.6%	7.1%
Extradition declined	0.0	0.0	0.0	0.0	0.0
Victim refused to cooperate	17.1	15.6	17.2	19.5	13.4
Juvenile/no custody	0.8	0.5	0.1	1.7	0.5
Arrest	73.0	75.0	75.5	68.2	79.0

Individual states within the group of states with discretionary arrest policies differed in the proportions of incidents of assault not cleared by arrest in which the victim refused to cooperate with police among those involving family, intimates, acquaintances, and strangers (Table 11).

Table 11 Victims that Refused to Cooperate in Assault Incidents Not Cleared by Arrest - Discretionary Arrest Policies**Refused to Cooperate**

	All			Family			Intimate			Acquaintance			Stranger		
	No Arrest	n	%	No Arrest	n	%	No Arrest	n	%	No Arrest	n	%	No Arrest	n	%
Total	17,572	11,161	63.5%	6,029	3,765	62.4%	3,192	2,246	70.4%	7,283	4,469	61.4%	1,068	681	63.8%
Delaware	5,773	4,516	78.2	1,543	1,253	81.2	1,207	1,035	85.7	2,599	1,911	73.5	424	317	74.8
Idaho	2,705	1,043	38.6	944	366	38.8	432	165	38.2	1,183	458	38.7	146	54	37.0
Kentucky	374	187	50.0	85	44	51.8	71	43	60.6	191	88	46.1	27	12	*
Nebraska	197	128	65.0	41	24	*	15	13	*	130	86	66.2	11	5	*
New Hampshire	373	140	37.5	71		32.4	35		*	221		34.8	46		*
South Dakota*	24	10	*	5	0	*	2	2	*	14	7	*	3	1	*
Texas	6,550	4,236	64.7	2,654	1,598	60.2	1,245	824	66.2	2,290	1,563	68.3	361	251	69.5
Vermont*	229	168	73.4	51	37	72.5	30	25	83.3	146	105	71.9	2	1	*
West Virginia					420			115			174			24	
	1,347	733	54.4	635		66.1	155		74.2	509		34.2	48		*

Among all incidents of sexual assault within the discretionary arrest policy group, 10.3% of incidents were cleared exceptionally because the victim refused to cooperate; the proportion was higher for intimates (15.4%), acquaintances (11.9%) and strangers (10.7%), than for victims who were family members (6.5%) (Table 12). As with the overall picture, there were higher proportions among sexual assault victims of incidents being cleared due to prosecution being declined than the victim refusing to cooperate with police; this is not true among incidents of simple and aggravated assault. For sexual assault incidents involving victims that were intimates, acquaintances, and strangers, the proportion of incidents resulting in a clearance of "prosecution declined" was about double that of "victim refused to cooperate". However, among family victims of sexual assault, the proportion cleared by prosecution being declined was nearly triple that of the victim refusing to cooperate.

Table 12 Assault Clearance Methods by Victim Type and Type of Assault - Discretionary Arrest Policies

	Victims (%)				
Sex assault					
Clearance code	All	Family	Intimate	Acquaintance	Stranger
Total	(n = 2,659)	(n = 906)	(n = 227)	(n = 1,442)	(n = 84)
Prosecution declined	23.6%	24.1%	27.3%	22.8%	21.4%
Extradition declined	0.0	0.1	0.0	0.0	0.0
Victim refused to cooperate	10.3	6.5	15.4	11.9	10.7
Juvenile/no custody	1.6	1.9	0.9	1.7	0.0
Arrest	64.5	67.4	56.4	63.7	67.9
Aggravated assault	(n = 8,509)	(n = 2,608)	(n = 1,272)	(n = 3,328)	(n = 1,301)
Prosecution declined	7.5%	6.3%	5.0%	9.9%	6.3%
Extradition declined	0.0	0.0	0.0	0.0	0.0
Victim refused to cooperate	9.0	6.7	7.8	11.4	8.5
Juvenile/no custody	0.3	0.3	0.0	0.6	0.1
Arrest	83.1	86.6	87.2	78.1	85.1
	(n = 54,031)	(n = 20,645)	(n = 10,322)	(n = 18,132)	(n = 3,694)

Simple assault	11,560)				
Prosecution declined	8.5%	8.5%	7.0%	9.7%	8.5%
Extradition declined	0.0	0.0	0.0	0.0	0.0
Victim refused to cooperate	18.7	17.1	18.3	21.6	18.7
Juvenile/no custody	0.9	0.4	0.0	1.9	0.9
Arrest	71.9	73.9	74.6	66.7	77.0

Among all incidents of aggravated assault in the group of jurisdictions reporting from the states having discretionary arrest policies, 9.0% of incidents were cleared exceptionally because the victim refused to cooperate; the proportion was highest for acquaintances (11.4%), followed by strangers (8.5%); intimates (7.8%) and victims who were family members had the lowest proportion (6.7%).

Incidents of simple assault showed the highest overall likelihood (18.7%) of being cleared exceptionally because the victim refused to cooperate among the assault offense categories in the group of jurisdictions reporting from the states having discretionary arrest policies. The proportion of simple assault victims refusing to cooperate with police was highest for acquaintances (21.6%), followed by strangers (18.7%) and intimates (18.3%); victims who were family members had the lowest proportion (17.1%).

Overall, in the group of jurisdictions reporting from the states having discretionary arrest policies in each of the assault offense categories and in the total, arrest is the most frequent means of clearing an incident. However, there are substantial differences in the likelihood of arrest among the offense categories. On average, the likelihood of arrest for incidents involving sexual assault (64.5%) is lower than those involving simple (71.9%) or aggravated (83.1%) assaults.

6.3.2 Logistic Regression

In the group of jurisdictions reporting from the states having discretionary arrest policies, incident characteristics involving family victims differed from those involving intimates in several respects. Since a simple cross-tabular comparison of differential likelihoods of non-cooperation for family victims and victims defined as intimates could distort the actual influence of a victim's relationship to the offender on the likelihood of non-cooperation, a logistic regression was performed to study the effects of victim-offender relationship while controlling for other incident characteristics for this group of reporting jurisdictions.

The logistic regression found a significant difference in the likelihood of non-cooperation for family and intimate victims for the discretionary policy group (Table 13). The odds of a victim refusing to cooperate with police were about 7% greater if the victim was an intimate partner than if the victim was a family member. Other incident characteristics also substantially affected the likelihood of non-cooperation. If more than one offender was involved, the odds of victim non-cooperation were about 100% greater than the odds of victim non-cooperation in a single-offender incident. However, if more than one victim was involved, the odds of non-cooperation decreased about 58%. If the incident took place in a location other than a residence, the odds of non-cooperation decreased about 10%. The odds of victim non-cooperation increased if the offender was an adult (13%), if the victim was an adult (49%), and if the victim was male (15%). If the victim was not injured, the odds of non-cooperation increased 158% and the odds increased 64% if the incident involved only one offense. The odds of victim non-cooperation decreased 119% if the assault was a sexual assault and increased 85% if a weapon was involved in the incident.

Table 13 Logistic Regression to Predict the Non-cooperation of All Domestic Assault Victims - Discretionary Policies

Dichotomized Independent Variable	Value coded '0' (% Refused)	Value coded '1' (%Refused)	Estimated B	Odds Ratio
Number of offenders	One (15.3)	More than one (22.1)	.696	2.005 ***
Number of victims	One (16.2)	More than one (16.1)	-.461	0.631 ***
Location of incident	Residence (16.3)	Nonresidence (15.3)	-.098	0.907 *
Most serious weapon	Personal (17.0)	Non-Personal (9.9)	-.615	0.541 ***
Offender age	Juvenile (14.6)	Adult (16.3)	.118	1.125 *
Offender sex	Male (15.5)	Female (18.2)	.071	1.074 ns
Victim injured?	No (22.2)	Yes (10.7)	-.947	0.388 ***
Victim sex	Male (17.6)	Female (15.6)	-.144	0.866 ***
Victim age	Juvenile (10.7)	Adult (17.0)	.400	1.492 ***
Sexual assault?	No (16.4)	Yes (8.3)	-.786	0.456 ***
Number of offenses?	One (16.3)	More than one (12.1)	-.494	0.610 ***
Victim/offender relationship	Family (15.6)	Intimate (17.2)	.064	1.066 *
Model Chi-square	1,609.270 **			
12 df p<0.000				
N = 37,218				
* p ≤ .05				
** p ≤ .01				
*** p ≤ .001				

Separate logistic regression equations were developed for each of the nine states in the discretionary policy group (Table 14). In 2 states, Texas and West Virginia, a significant difference was found in the likelihood of non-cooperation for family and intimate victims; the odds increased if the victim was an intimate in Texas but for West Virginia the odds increased if the victim was a family member. In 6 states, Delaware, Idaho, Kentucky, Nebraska, New Hampshire and Vermont, the victim-offender relationship was not significantly correlated with the likelihood of victim non-cooperation. There were also differences among the states for each of the remaining predictors.

Table 14 State Logistic Regressions - Discretionary Arrest Policies

	Number of offenders	Number of victims	Location	Weapon	Offender age	Offender sex	Injury	Victim sex	Victim age	Sexual assault	Number of offenses	Victim offender relationship
All	More than one	One	Residence	No	Adult	ns	No	Male	Adult	No	One	Intimate
Delaware	More than one	One	Residence	No	ns	ns	No	Male	Adult	No	One	ns
Idaho	More than one	One	ns	No	ns	ns	No	Male	Adult	ns	ns	ns
Kentucky	More than one		ns	ns		ns	-----	ns	ns			ns
Nebraska	ns	One	ns			ns	No	ns				ns
New Hampshire		ns	Residence		ns	ns	No	Male	Juvenile			ns
South Dakota												
Texas	ns	One	Non-residence	No	Adult	Female	No	ns	Adult	No	ns	Intimate
Vermont	More than one	One	ns	ns	ns	ns	No	ns	ns			ns
West Virginia	ns	One	ns	No	ns	ns	No	ns	Adult	ns	One	Family
Shading indicates variables with expected values <5 in contingency tables generated with dependent variable												

Because the logistic regression found a significant difference in the likelihood of non-cooperation for family and intimate victims, logistic regression equations were developed separately for family (Table 15) and intimate domestic assault victims (Table 16) to determine whether incident characteristics affecting likelihood of non-cooperation differed for these two groups. Some of the incident characteristics that significantly affected the odds of victim non-cooperation were the same for both groups.

Table 15 Logistic Regression to Predict the Non-cooperation of Family Domestic Assault Victims - Discretionary Arrest Policies

Dichotomized Independent Variable	Value coded '0' (% Refused)	Value coded '1' (%Refused)	Estimated B	Odds Ratio
Number of offenders	One (14.4)	More than one (23.3)	.871	2.390 ***
Number of victims	One (15.6)	More than one (15.5)	-.523	.593 ***
Location of incident	Residence(15.8)	Nonresidence (14.2)	-.133	.875 *
Most serious weapon	Personal (16.5)	Non-Personal (9.0)	-.709	.492 ***
Offender age	Juvenile (14.1)	Adult (15.8)	.149	1.161 **
Offender sex	Male (14.9)	Female (17.6)	.079	1.082 ns
Victim injured?	No (21.0)	Yes (10.5)	-.925	.396 ***
Victim sex	Male (17.0)	Female (14.9)	-.169	.844 ***
Victim age	Juvenile (10.0)	Adult (16.8)	.426	1.531 ***
Sexual assault?	No (15.9)	Yes (6.5)	-1.007	.365 ***
Number of offenses?	One (15.8)	More than one (9.3)	-.755	.470 ***
Model Chi-square	1152.935 **			
11 df p<0.000				
N = 24,159				
* p ≤ .05				

** $p \leq .01$
 *** $p \leq .001$

If more than one offender was involved, the odds of victim non-cooperation were more than 139% greater for family victims and more than 37% greater for intimate victims than the odds of victim non-cooperation in a single-offender incident. If more than one victim was involved, the odds of non-cooperation decreased about 69% for family victims and 32% for intimates. If the incident involved more than one offense, the odds of non-cooperation increased 113% for family victims and 42% for intimates. If the incident involved a weapon, the odds of victim non-cooperation increased 103% for family victims and about 56% for intimates. If the victim was injured, the odds of non-cooperation decreased 153% for family victims and 170% for intimates. If the victim was an adult, the odds of non cooperation increased 53% for family assault victims and 39% for intimates. For both groups of victims, offender sex was not correlated with non-cooperation probability.

Table 16 Logistic Regression to Predict the Non-cooperation of Intimate Domestic Assault Victims - Discretionary Arrest Policies

Dichotomized Independent Variable	Value coded '0' (% Refused)	Value coded '1' (%Refused)	Estimated B	Odds Ratio
Number of offenders	One (16.8)	More than one (20.0)	.316	1.372 ***
Number of victims	One (17.1)	More than one (17.6)	-.280	.756 **
Location of incident	Residence(17.4)	Nonresidence (16.5)	-.067	.935 ns
Most serious weapon	Personal (17.8)	Non-Personal (11.8)	-.442	.643 ***
Offender age	Juvenile (21.1)	Adult (17.1)	-.280	.756 ns
Offender sex	Male (16.6)	Female (19.4)	.118	1.125 ns
Victim injured?	No (24.4)	Yes (10.9)	-.995	.370 ***
Victim sex	Male (19.2)	Female (16.6)	-.066	.936 ns
Victim age	Juvenile (14.1)	Adult (17.4)	.327	1.387 **

Sexual assault?	No (17.2)	Yes (15.4)	-.223	.800 ns
Number of offenses?	One (17.4)	More than one (14.2)	-.350	.705 ***
Model Chi-square	505.998 **			
11 df p<0.000				
N = 13,059				
* p ≤ .05				
** p ≤ .01				
*** p ≤ .001				
ns not significant				

Some of the incident characteristics were correlated with the probability of non-cooperation for family victims and not for intimates. The odds of non-cooperation among family victims increased 14% if the incident occurred in a residence, 16% if the offender was an adult, 18% if the victim was male and decreased 174% if the assault was a sexual assault.

6.4 PREFERRED ARREST POLICIES

6.4.1 Descriptives

Overall in the group of jurisdictions reporting from the states having preferred arrest policies (Table 17), arrest was the most likely means of clearing an incident of assault among all types of victims. Within the preferred arrest policy group, the highest proportion of cleared incidents of assault in which the victim refused to cooperate with police was for those involving acquaintances (14.9%), followed by strangers (8.7%), and then intimates (8.4%). The likelihood of an assault incident being cleared because the victim refused to cooperate with police was lowest for family (6.8%).

Table 17 Assault Clearance Methods by Type of Victim - Preferred Arrest Policies

Clearance code	Victims (%)				
	All	Family	Intimate	Acquaintance	Stranger
	(n =	(n =	(n =	(n =	(n =
Total	125,736)	45,703)	30,954)	39,303)	9,776)
Prosecution declined	11.2%	10.1%	10.5%	13.4%	8.8%
Extradition declined	0.0	0.0	0.0	0.0	0.1
Victim refused to cooperate	9.9	6.8	8.4	14.9	8.7
Juvenile/no custody	0.7	0.5	0.2	1.4	0.5
Arrest	78.3	82.6	80.9	70.3	81.9

Individual states within the group of states with preferred arrest policies differed in their proportions of incidents of assault not cleared by arrest in which the victim refused to cooperate with police among those involving family, intimates, acquaintances, and strangers (Table 18).

Table 18 Victims that Refused to Cooperate in Assault Incidents Not Cleared by Arrest - Preferred Arrest Policies

Refused to Cooperate

	All			Family			Intimate			Acquaintance			Stranger		
	No Arrest	n	%	No Arrest	n	%	No Arrest	n	%	No Arrest	n	%	No Arrest	n	%
Total	27,340	12,400	45.4%	7,695	3,102	38.9%	5,916	2,601	44.0%	11,687	5,843	50.0%	1,772	854	48.2%
Arkansas	911	771	84.6	178	134	75.3	177	148	83.6	551	488	88.6	5	1	*
Massachusetts	219	91	41.6	31	17	*	15	5	*	141	59	41.8	32	10	*
Michigan	8,740	2,939	33.6	2,687	683	25.4	1,228	335	27.3	4,242	1,683	39.7	583	238	40.8
North Dakota	306	131	42.8	69	22	31.9	55	32	58.2	155	66	42.6	27	11	*
Tennessee	17,164	8,468	49.3	5,000	2,246	44.9	4,441	2,081	46.9	6,598	3,547	53.8	1,125	594	52.8

Incidents of sexual assault showed the highest overall likelihood (18.7%) of being cleared exceptionally because the victim refused to cooperate among the assault offense categories in the group of jurisdictions reporting from the states having preferred arrest policies (Table 19). Among all incidents of sexual assault within the preferred arrest policy group, 11.1% of incidents were cleared exceptionally because the victim refused to cooperate; the proportion was higher for strangers (16.2%), intimates (13.2%), and acquaintances (12.7%), than for victims who were family members (6.5%). Once again we see higher proportions among sexual assault victims of incidents being cleared due to prosecution being declined than the victim refusing to cooperate with police that do not occur among incidents of simple and aggravated assault. For sexual assault incidents reported by jurisdictions in states having preferred arrest policies, involving victims that were intimates and acquaintances, the proportion of incidents resulting in a clearance of "prosecution declined" was about double that of "victim refused to cooperate". Among family victims of sexual assault, the proportion cleared by prosecution being declined was nearly triple that of the victim refusing to cooperate. However, the proportion of strangers cleared by prosecution being declined was only slightly higher than that of the incident being cleared because the victim refused to cooperate.

Table 19 Assault Clearance Methods by Victim Type and Type of Assault - Preferred**Arrest Policies**

Clearance code Total	Victims (%)				
	All	Family	Intimate	Acquaintance	Stranger
Sex assault	(n = 5,712)	(n = 1,760)	(n = 477)	(n = 3,054)	(n = 421)
Prosecution declined	22.6%	24.0%	27.0%	21.7%	17.8%
Extradition declined	0.0	0.0	0.2	0.0	0.0
Victim refused to cooperate	11.1	6.5	13.2	12.7	16.2
Juvenile/no custody	1.5	1.4	0.6	1.8	0.2
Arrest	64.8	68.1	58.9	63.8	65.8
Aggravated assault	(n = 25,283)	(n = 7,266)	(n = 4,727)	(n = 9,589)	(n = 3,701)
Prosecution declined	6.0%	5.1%	6.2%	6.8%	5.4%
Extradition declined	0.0	0.0	0.0	0.1	0.0
Victim refused to cooperate	6.3	4.0	4.3	9.1	6.1
Juvenile/no custody	0.7	0.6	0.7	0.9	0.5
Arrest	86.9	90.3	88.8	83.1	87.9
Simple assault	(n = 94,741)	(n = 36,677)	(n = 25,750)	(n = 26,660)	(n = 5,654)
Prosecution declined	11.9%	10.5%	11.0%	14.9%	10.3%
Extradition declined	0.0	0.0	0.0	0.0	0.1
Victim refused to cooperate	10.7	7.3	9.1	17.2	9.9
Juvenile/no custody	0.6	0.4	0.1	1.5	0.5
Arrest	76.7	81.7	79.8	66.4	79.1

Among all incidents of aggravated assault in the group of jurisdictions reporting from the states having preferred arrest policies, 6.3% of incidents were cleared exceptionally because the victim refused to cooperate; the proportion was highest for acquaintances (9.1%), followed by

strangers (6.1%). Intimates and victims who were family members had lower proportions (4.3% and 4.0% respectively).

Among all incidents of simple assault in the group of jurisdictions reporting from the states having preferred arrest policies, 10.7% of incidents were cleared exceptionally because the victim refused to cooperate with police. The proportion of simple assault victims refusing to cooperate with police was highest for acquaintances (17.2%), followed by strangers (9.9%) and intimates (9.1%); victims who were family members had the lowest proportion (7.3%).

Overall, in the group of jurisdictions reporting from the states having preferred arrest policies in each of the assault offense categories and in the total, arrest is the most frequent means of clearing an incident. However, again, there are substantial differences in the likelihood of arrest among the offense categories. On average, the likelihood of arrest for incidents involving sexual assault (64.8%) is lower than those involving simple (76.7%) or aggravated (86.9%) assaults.

6.4.2 Logistic Regression

In the group of jurisdictions reporting from the states having preferred domestic violence arrest policies, incident characteristics involving family victims differed from those involving intimates in several respects. A simple cross-tabular comparison of differential likelihoods of non-cooperation for family victims and victims defined as intimates could distort the actual influence of a victim's relationship to the offender on the likelihood of non-cooperation, a logistic regression was performed to study the effects of victim-offender relationship while controlling for other incident characteristics for this group of reporting jurisdictions.

The logistic regression found a significant difference in the likelihood of non-cooperation for family and intimate victims for the discretionary policy group (Table 20). The odds of a

victim refusing to cooperate with police were about 16% greater if the victim was an intimate partner than if the victim was a family member. Other incident characteristics also substantially affected the likelihood of non-cooperation. If more than one offender was involved, the odds of victim non-cooperation were about 109% greater than the odds of victim non-cooperation in a single-offender incident. However, if more than one victim was involved, the odds of non-cooperation decreased about 31%. If the incident took place in a location other than a residence, the odds of non-cooperation increased about 13%. The odds of victim non-cooperation increased if the offender was an adult (76%) and if the victim was an adult (46%). If the victim was not injured, the odds of non-cooperation increased 92%. The odds of victim non-cooperation increased nearly 25% if the assault was a sexual assault and decreased 63% if a weapon was involved in the incident.

Table 20 Logistic Regression to Predict the Non-cooperation of All Domestic Assault Victims - Preferred Arrest Policies				
Dichotomized Independent Variable	Value coded '0' (% Refused)	Value coded '1' (%Refused)	Estimated B	Odds Ratio
Number of offenders	One (7.0)	More than one (11.6)	.736	2.088 ** *
Number of victims	One (7.4)	More than one (7.8)	-.270	0.764 ** *
Location of incident	Residence (7.3)	Nonresidence (8.6)	.122	1.129 ** *
Most serious weapon	Personal (7.9)	Non-Personal (4.8)	-.491	0.612 ** *
Offender age	Juvenile (4.3)	Adult (7.8)	.566	1.762 ** *
Offender sex	Male (7.3)	Female (7.8)	.053	1.054 ns
Victim injured?	No (9.6)	Yes (5.5)	-.649	0.522 ** *
Victim sex	Male (7.5)	Female (7.4)	-.025	0.975 ns

Victim age	Juvenile (5.2)	Adult (7.7)	.377	1.459 ** *
Sexual assault?	No (7.4)	Yes (7.9)	.219	1.245 *
Number of offenses?	One (7.4)	More than one (8.3)	.062	1.063 ns
Victim/offender relationship	Family (6.8)	Intimate (8.4)	.149	1.161 ** *
Model Chi-square	1,131.475 **			
12 df p<0.000				
N = 76,657				
* p ≤ .05				
** p ≤ .01				
*** p ≤ .001				
ns not significant				

Separate logistic regression equations were developed for each of the five states in the preferred policy group. In 2 states, Arkansas and Tennessee, a significant difference was found in the likelihood of non-cooperation for family and intimate victims; the odds of victim non-cooperation increased if the victim was an intimate (Table 21). In 2 states, North Dakota and Michigan, the victim-offender relationship was not significantly correlated with the likelihood of victim non-cooperation. There were also differences among the states for each of the remaining predictors.

Table 21 State Logistic Regressions - Preferred Arrest Policies

	Number of offenders	Number of victims	Location	Weapon	Offender age	Offender sex	Injury	Victim sex	Victim age	Sexual assault	Number of offenses	Victim offender relationship
All	More than one	One	Non-residence	No	Adult	ns	No	ns	Adult	Yes	ns	Intimate
Arkansas	ns	One	ns	No	Adult	Female	No	ns	ns	No	ns	Intimate
Massachusetts												
Michigan	More than one	One	Non-residence	No	ns	ns	No	Male	Adult	Yes	ns	ns
North Dakota	ns	One	Non-residence			Male	No	ns	Adult			ns
Tennessee	More than one	One	ns	No	Adult	ns	No	ns	Adult	ns	ns	Intimate
Shading indicates variables with expected values <5 in contingency tables generated with dependent variable												

In general, offender sex, victim sex, and the number of offenses involved in the incident were not significantly correlated with the probability of non-cooperation. However, since the logistic regression found a significant difference in the likelihood of non-cooperation for family and intimate victims, logistic regression equations were developed separately for family (Table 22) and intimate domestic assault victims (Table 23) to determine whether incident characteristics affecting likelihood of non-cooperation differed for these two groups.

Some of the incident characteristics that significantly affected the odds of victim non-cooperation were the same for both groups. If more than one offender was involved, the odds of victim non-cooperation were more than 171% greater for family victims and about 30% greater for intimate victims than the odds of victim non-cooperation in a single-offender incident. If the incident involved a weapon, the odds of victim non-cooperation decreased 55% for family victims and about 74% for intimates. If the victim was injured, the odds of non-cooperation decreased about 90% for family victims and 94% for intimates.

Table 22 Logistic Regression to Predict the Non-cooperation of Family Domestic Assault Victims - Preferred Arrest Policies

Dichotomized Independent Variable	Value coded '0' (% Refused)	Value coded '1' (%Refused)	Estimated B	Odds Ratio
Number of offenders	One (6.1)	More than one (13.2)	.997	2.710 ***
Number of victims	One (6.6)	More than one (7.5)	-.288	.750 ***
Location of incident	Residence(6.6)	Nonresidence (8.0)	.150	1.162 **
Most serious weapon	Personal (7.2)	Non-Personal (4.7)	-.439	.645 ***
Offender age	Juvenile (3.9)	Adult (7.3)	.659	1.934 ***
Offender sex	Male (6.5)	Female (7.7)	.112	1.118 *
Victim injured?	No (8.6)	Yes (5.0)	-.643	.525 ***
Victim sex	Male (7.3)	Female (6.6)	-.104	.901 *
Victim age	Juvenile (4.5)	Adult (7.3)	.503	1.653 ***

Sexual assault?	No (6.8)	Yes (6.5)	.188	1.207 ns
Number of offenses?	One (6.8)	More than one (7.6)	.128	1.136 ns
Model Chi-square	833.449 **			
11 df p<0.000				
N = 45,703				
* p ≤ .05				
** p ≤ .01				
*** p ≤ .001				

Several incident characteristics that significantly affected the odds of victim non-cooperation for family victims were not correlated with the probability of non-cooperation among intimates. Among incidents involving family victims in the preferred arrest policy group of reporting jurisdictions, if the incident involved more than one victim, the odds of victim non-cooperation decreased 33%, the incident took place inside a residence the decrease was 16% (Table 23). The odds of family victim non-cooperation increased if the offender was an adult (93%), female (12%) and if the victim was an adult (65%). If the family victim was male, the odds of non-cooperation increased 11%.

Table 23 Logistic Regression to Predict the Non-cooperation of Intimate Domestic Assault Victims - Preferred Arrest Policies

Dichotomized Independent Variable	Value coded '0' (% Refused)	Value coded '1' (%Refused)	Estimated B	Odds Ratio
Number of offenders	One (8.3)	More than one (9.3)	.258	1.295 **
Number of victims	One (8.4)	More than one (8.4)	-.143	.867 ns
Location of incident	Residence(8.3)	Nonresidence (9.0)	.079	1.083 ns
Most serious weapon	Personal (9.0)	Non-Personal (5.1)	-.552	.576 ***
Offender age	Juvenile (9.1)	Adult (8.4)	.002	1.002 ns
Offender sex	Male (8.5)	Female (8.1)	.205	1.227 ns
Victim injured?	No (11.4)	Yes (6.1)	-.662	.516 ***

Victim sex	Male (7.8)	Female (8.5)	.248	1.282 ns
Victim age	Juvenile (8.9)	Adult (8.4)	.105	1.111 ns
Sexual assault?	No (8.3)	Yes (13.2)	.328	1.388 *
Number of offenses?	One (8.4)	More than one (8.7)	.006	1.006
Model Chi-square	361.283 **			
11 df	p<0.000			
N	= 30,954			
	* p ≤ .05			
	** p ≤ .01			
	*** p ≤ .001			

Among family victims, if the domestic the nature of the assault being a sexual assault was not correlated with the probability of non-cooperation. However, for intimates in this policy grouping, if the assault was a sexual assault, the odds of non-cooperation increased 39%. For both groups of victims, the number of offenses involved in the incident was not correlated with non-cooperation probability.

6.5 MANDATORY ARREST POLICIES

6.5.1 Descriptives

Within the mandatory arrest policy group, the highest proportion of cleared incidents of assault in which the victim refused to cooperate with police (Table 24) was for those involving acquaintances (16.7%), followed by intimates (11.9%), and then strangers (10.6%). The likelihood of an assault incident being cleared because the victim refused to cooperate with police was lowest for family (9.9%).

Table 24 Assault Clearance Methods by Type of Victim - Mandatory Arrest Policies					
Clearance code	Victims (%)				
	All Total (n = 212,171)	Family (n = 76,968)	Intimate (n = 42,220)	Acquaintance (n = 76,248)	Stranger (n = 16,735)
Prosecution declined	10.2%	8.1%	8.5%	13.6%	8.4%
Extradition declined	0.1	0.1	0.1	0.1	0.1
Victim refused to cooperate	12.8	9.9	11.9	16.7	10.6
Juvenile/no custody	1.1	0.7	0.4	2.1	0.9
Arrest	75.8	81.2	79.2	67.5	80.0

Overall in the group of jurisdictions reporting from the states having mandatory arrest policies, arrest was the most likely means of clearing an incident of assault among all types of victims. Overall, in the group of jurisdictions reporting from the states having mandatory arrest policies in each of the assault offense categories and in the total, arrest is the most frequent means of clearing an incident. However, keeping in mind that arrest is mandatory for cases of domestic assault, it is interesting to note that the proportions of incidents resulting in arrest do not differ substantially between the victims defined to be family or intimate, and those who are not considered to be victims of "domestic" assault and therefore not protected by the mandatory arrest policy. Among all incidents of assault within the mandatory arrest policy group, the proportion of incidents cleared by arrest 80.0% for strangers and 67.5% for acquaintances. Where the victim-offender relationship was family the overall proportion of incidents cleared by arrest was 81.2% and 79.2% for intimates.

Individual states within the group of states with mandatory arrest policies differed somewhat in their proportions of incidents of assault not cleared by arrest in which the victim

refused to cooperate with police among those involving family, intimates, acquaintances, and strangers (Table 24).

Table 25 Victims that Refused to Cooperate in Assault Incidents Not Cleared by Arrest - Mandatory Arrest Policies**Refused to Cooperate (n)**

	All			Family			Intimate			Acquaintance			Stranger		
	No Arrest	n	%	No Arrest	n	%	No Arrest	n	%	No Arrest	n	%	No Arrest	n	%
Total	51,445	27,200	52.9%	14,505	7,652	52.8%	8,787	5,009	57.0%	24,805	12,760	51.4%	3,348	1,779	53.1%
Colorado	1,330	819	61.6%	383	249	65.0%	86	33	38.4%	725	440	60.7%	136	97	71.3%
Connecticut	209	159	76.1	36	23	*	44	39	*	117	89	76.1	12	8	*
Iowa	1,805	454	25.2	324	95	29.3	220	86	39.1	1,126	239	21.2	135	34	25.2
Kansas	3,104	1,396	45.0	714	237	33.2	671	114	17.0	1,474	893	60.6	245	152	62.0
Louisiana	207	193	93.2	80	75	93.8	44	43	*	79	72	91.1	4	3	*
Ohio	7,051	4,842	68.7	1,086	730	67.2	1,213	1,004	82.8	4,288	2,783	64.9	464	325	70.0
Oregon*	38	14	*	5	1	*	11	3	*	17	8	*	5	2	*
South Carolina	21,686	14,645	67.5	7,337	5,008	68.3	3,537	2,689	76.0	9,622	6,149	63.9	1,190	799	67.1
Utah	1,348	626	46.4	353	53	15.0	172	68	39.5	721	436	60.5	102	69	67.6
Virginia	14,667	4,052	27.6	4,187	1,181	28.2	2,789	930	33.3	6,636	1,651	24.9	1,055	290	27.5

Among assault categories within the mandatory arrest policy group (Table 26), 13.0% of incidents involving sexual assault were cleared exceptionally because the victim refused to cooperate; the proportion was highest for intimates (17.4%), and lowest for victims who were family members (7.9%); the proportions for victims defined to be acquaintances or strangers were similar (14.6% and 14.2% respectively). Once again we see higher proportions occurring among sexual assault victims of incidents being cleared due to prosecution being declined than the victim refusing to cooperate with police that do not occur among incidents of simple and aggravated assault. Among family victims of sexual assault, the proportion cleared by prosecution being declined was considerably higher than that of the victim refusing to cooperate. However, the proportion of strangers cleared by prosecution being declined was equal to that of the incident being cleared because the victim refused to cooperate. For sexual assault incidents reported by jurisdictions in states having mandatory arrest policies, involving victims that were intimates and acquaintances, the proportion of incidents resulting in a clearance of "prosecution declined" was about 7 percentage points higher than that of incidents cleared by "victim refused to cooperate".

Among all incidents of aggravated assault in the group of jurisdictions reporting from the states having mandatory arrest policies, 10.0% of incidents were cleared exceptionally because the victim refused to cooperate; the proportion was highest for acquaintances (12.0%), followed by intimates (9.6%) and family (8.7%); victims who were strangers had the lowest proportion (7.2%).

Incidents of simple assault showed the highest overall likelihood (13.3%) of being cleared exceptionally because the victim refused to cooperate among the assault offense categories in the group of jurisdictions reporting from the states having mandatory arrest

policies. The proportion of simple assault victims refusing to cooperate with police was highest for acquaintances (17.9%), followed by intimates (12.1%) and strangers (11.6%); victims who were family members had the lowest proportion (10.2%).

Table 26 Assault Clearance Methods by Type of Assault - Mandatory Arrest Policies

Clearance code	Victims (%)				
Sex Assault	All	Family	Intimate	Acquaintance	Stranger
Total	(n = 8,371)	(n = 2,297)	(n = 645)	(n = 4,881)	(n = 548)
Prosecution declined	21.2%	20.5%	24.5%	21.9%	14.2%
Extradition declined	0.4	0.7	0.3	0.3	0.0
Victim refused to cooperate	13.0	7.9	17.4	14.6	14.2
Juvenile/no custody	1.4	1.3	0.8	1.6	0.9
Arrest	63.9	69.5	57.1	61.5	70.6
Aggravated assault	(n = 30,376)	(n = 8,900)	(n = 4,880)	(n = 12,481)	(n = 4,115)
Prosecution declined	5.3%	4.2%	3.3%	6.8%	5.0%
Extradition declined	0.0	0.0	0.0	0.0	0.1
Victim refused to cooperate	10.0	8.7	9.6	12.0	7.2
Juvenile/no custody	0.5	0.3	0.1	0.7	0.3
Arrest	84.3	86.8	87.0	80.4	87.4
Simple assault	(n = 173,424)	(n = 65,771)	(n = 36,695)	(n = 58,886)	(n = 12,072)
Prosecution declined	10.5%	8.2%	8.9%	14.3%	9.3%
Extradition declined	0.1	0.1	0.1	0.1	0.1
Victim refused to cooperate	13.3	10.2	12.1	17.9	11.6
Juvenile/no custody	1.2	0.7	0.4	2.4	1.1
Arrest	74.8	80.8	78.5	65.2	77.9

Overall, in the group of jurisdictions reporting from the states having mandatory arrest policies in each of the assault offense categories and in the total, arrest was the most frequent means of clearing an incident. There were substantial differences in the likelihood of arrest among the offense categories. On average, the likelihood of arrest for incidents involving sexual assault (63.9%) was lower than those involving simple (74.8%) or aggravated (84.3%) assaults.

6.5.2 Logistic Regression

In the group of jurisdictions reporting from the states having mandatory domestic violence arrest policies, incident characteristics involving family victims differed from those involving intimates in several respects. A simple cross-tabular comparison of differential likelihoods of non-cooperation for family victims and victims defined as intimates might misrepresent the actual influence of a victim's relationship to the offender on the likelihood of non-cooperation. A logistic regression was performed to study the effects of victim-offender relationship while controlling for other incident characteristics for this group of reporting jurisdictions.

The logistic regression found a significant difference in the likelihood of non-cooperation for family and intimate victims for the mandatory policy group (Table 27). The odds of a victim refusing to cooperate with police were about 22% greater if the victim was an intimate partner than if the victim was a family member. Other incident characteristics also substantially affected the likelihood of non-cooperation. If more than one offender was involved, the odds of victim non-cooperation were about 51% greater than the odds of victim non-cooperation in a single-offender incident. However, if more than one victim was involved, the odds of non-cooperation decreased about 68%. If the incident took place in a location other than a residence, the odds of

non-cooperation increased about 14%. The odds of victim non-cooperation increased if the offender was an adult (22%) and if the victim was an adult (39%). If the victim was not injured, the odds of non-cooperation increased 147%. The odds of victim non-cooperation increased nearly 15% if a weapon was involved in the incident. Offender sex, victim sex, and whether or not the assault was a sexual assault were not correlated with the probability of non-cooperation.

Table 27 Logistic Regression to Predict the Non-cooperation of All Domestic

Assault Victims - Mandatory Arrest Policies

Dichotomized Independent Variable	Value coded '0' (% Refused)	Value coded '1' (%Refused)	Estimated B	Odds Ratio
Number of offenders	One (7.0)	More than one (11.6)	0.414	1.513 ***
Number of victims	One (7.4)	More than one (7.8)	-0.518	0.595 ***
Location of incident	Residence (7.3)	Nonresidence (8.6)	0.135	1.144 ***
Most serious weapon	Personal (7.9)	Non-Personal (4.8)	0.139	1.149 ***
Offender age	Juvenile (4.3)	Adult (7.8)	0.198	1.218 ***
Offender sex	Male (7.3)	Female (7.8)	0.017	1.017 ns
Victim injured?	No (9.6)	Yes (5.5)	-0.904	0.405 ***
Victim sex	Male (7.5)	Female (7.4)	-0.033	0.968 ns
Victim age	Juvenile (5.2)	Adult (7.7)	0.328	1.388 ***
Sexual assault?	No (7.4)	Yes (7.9)	-0.055	0.946 ns
Number of offenses?	One (7.4)	More than one (8.3)	-0.466	0.628 ***
Victim/offender relationship	Family (6.8)	Intimate (8.4)	0.196	1.216 ***
Model Chi-square	2669.694 **			
12 df p<0.000				
N = 119,188				

* $p \leq .05$ ** $p \leq .01$ *** $p \leq .001$
--

Separate logistic regression equations were developed for each of the ten states in the mandatory policy group (Table 28). In 6 states, Colorado, Connecticut, Ohio, South Carolina, Utah and Virginia, a significant difference was found in the likelihood of non-cooperation for family and intimate victims; the odds of non-cooperation increased if the victim was an intimate in all but Colorado where the odds increased if the victim was a family member. In 3 states, Iowa, Kansas, and Louisiana, the victim-offender relationship was not significantly correlated with the likelihood of victim non-cooperation. There were also differences among the states for each of the remaining predictors.

Table 28 State Logistic Regressions - Mandatory Arrest Policies

	Number of offenders	Number of victims	Location	Weapon	Offender age	Offender sex	Injury	Victim sex	Victim age	Sexual assault	Number of offenses	Victim offender relationship
	More than 1	One	Non-residence	Yes	Adult	ns	No	ns	Adult	ns	One	Intimate
Colorado	ns	ns	ns	ns	Juvenile	ns	ns	ns	ns	Yes	One	Family
Connecticut	0	ns	ns		ns	ns	No	ns	ns			Intimate
Iowa	ns	ns	ns	ns	Juvenile	ns	No	ns	ns		More than	ns
Kansas	More than 1	One	ns	No	Juvenile	ns	No	ns	Juvenile	ns	One	ns
Louisiana	More than 1	ns	Residence	No	ns	ns	No	Male	ns		ns	ns
Ohio	More than 1	One	Non-residence	No	Adult	ns	No	ns	Adult	Yes	ns	Intimate
Oregon												
South Carolina	ns	One	Residence	No	Adult	Female	No	Male	Adult	No	ns	Intimate
Utah	ns	One	ns	ns	Juvenile	ns	No	ns	Adult	Yes	ns	Intimate
Virginia	More than 1	One	ns	Yes	Adult	ns	No	ns	Adult	ns	One	Intimate
Shading indicates variables with expected values <5 in contingency tables generated with dependent variable												

Since the logistic regression found a significant difference in the likelihood of non-cooperation for the victim offender relationship, logistic regression equations were developed separately for family (Table 29) and intimate domestic assault victims (Table 30) to determine whether incident characteristics affecting likelihood of non-cooperation differed for these two groups.

Some of the incident characteristics that significantly affected the odds of victim non-cooperation were the same for both family victims and those who were intimates. If more than one offender was involved, the odds of victim non-cooperation were more than 64% greater for family victims and about 27% greater for intimate victims than the odds of victim non-cooperation in a single-offender incident. If the incident involved a weapon, the odds of victim non-cooperation increased 11% for family victims and about 21% for intimates. If the victim was injured, the odds of non-cooperation decreased about 155% for family victims and 137% for intimates. If the incident involved more than one victim, the odds of noncooperation decreased 62% for family victims and 73% for intimates and if the incident involved more than one offense the odds of non cooperation decreased for both family (91%) and intimate (40%) victims.

Some of the incident characteristics that were significant for both victim types affected the odds of victim non-cooperation differently. The odds of family victim non-cooperation increased if the offender was an adult (30%) but decreased 28% for intimates. For family victims the odds of non-cooperation increased if the victim was male (9%) but for intimates the odds increased 42% if the victim was female.

Incident location was not correlated with the probability of non-cooperation among family victims but for intimates the odds of non-cooperation increased 24% if the incident took place outside of the residence. If the victim was an adult, the odds of non-cooperation increased

58% for family victims, but victim age was not correlated with the probability of non-cooperation among victims who were intimates. The assault being a sexual assault was not correlated with probability of non-cooperation for either group of victims.

Table 29 Logistic Regression to Predict the Non-cooperation of Family Domestic Assault Victims - Mandatory Arrest Policies

Dichotomized Independent Variable	Value coded '0' (% Refused)	Value coded '1' (%Refused)	Estimated B	Odds Ratio
Number of offenders	One (6.1)	More than one (13.2)	0.496	1.642 ***
Number of victims	One (6.6)	More than one (7.5)	-0.482	0.617 ***
Location of incident	Residence(6.6)	Nonresidence (8.0)	0.04	1.041 ns
Most serious weapon	Personal (7.2)	Non-Personal (4.7)	0.105	1.111 **
Offender age	Juvenile (3.9)	Adult (7.3)	0.265	1.304 ***
Offender sex	Male (6.5)	Female (7.7)	0.031	1.032 ns
Victim injured?	No (8.6)	Yes (5.0)	-0.937	0.392 ***
Victim sex	Male (7.3)	Female (6.6)	-0.085	0.919 **
Victim age	Juvenile (4.5)	Adult (7.3)	0.454	1.575 ***
Sexual assault?	No (6.8)	Yes (6.5)	-0.146	0.864 ns
Number of offenses?	One (6.8)	More than one (7.6)	-0.648	0.523 ***
Model Chi-square	1764.350 **			
11 df p<0.000				
N = 76,968				
* p ≤ .05				
** p ≤ .01				
*** p ≤ .001				

Incident location was not correlated with the probability of non-cooperation among family victims but for intimates the odds of non-cooperation increased 24% if the incident took place outside of the residence. If the victim was an adult, the odds of non-cooperation increased 58% for family victims, but victim age was not correlated with the probability of non-

cooperation among victims who were intimates. The assault being a sexual assault was not correlated with probability of non-cooperation for either group of victims.

Table 30 Logistic Regression to Predict the Non-cooperation of Intimate Domestic Assault Victims - Mandatory Arrest Policies				
Dichotomized Independent Variable	Value coded '0' (% Refused)	Value coded '1' (%Refused)	Estimated B	Odds Ratio
Number of offenders	One (8.3)	More than one (9.3)	0.237	1.267 ***
Number of victims	One (8.4)	More than one (8.4)	-0.546	0.579 ***
Location of incident	Residence(8.3)	Nonresidence (9.0)	0.214	1.239 ***
Most serious weapon	Personal (9.0)	Non-Personal (5.1)	0.194	1.214 ***
Offender age	Juvenile (9.1)	Adult (8.4)	-0.247	0.781 *
Offender sex	Male (8.5)	Female (8.1)	0.332	1.394 **
Victim injured?	No (11.4)	Yes (6.1)	-0.863	0.422 ***
Victim sex	Male (7.8)	Female (8.5)	0.35	1.419 **
Victim age	Juvenile (8.9)	Adult (8.4)	-0.047	0.954 ns
Sexual assault?	No (8.3)	Yes (13.2)	0.125	1.133 ns
Number of offenses?	One (8.4)	More than one (8.7)	-0.337	0.714 ***
Model Chi-square	963.825 **			
11 df	p<0.000			
N	= 42,220			
	* p ≤ .05			
	** p ≤ .01			
	*** p ≤ .001			
	ns = not significant			

This aim of this study was to determine whether there was evidence contained in the incident data reported by law enforcement that would reliably predict that a victim would be unwilling to cooperate with law enforcement when they respond to an incident of domestic violence and whether that evidence differed when considering the restrictiveness of arrest policy driving law enforcement's response.

The two general questions posed were

- Do certain extralegal factors predict the likelihood of victim non-cooperation in incidents involving domestic violence? and,
- Controlling for the type of arrest policy (mandatory, preferred, discretionary), what are the extralegal factors that predict the likelihood of victim non-cooperation in incidents involving domestic violence?

The analyses of these NIBRS data suggest that there are certain extralegal factors that predict the likelihood of non-cooperation. As shown in Table 30, all of the extralegal factors in the model were significantly correlated with the likelihood of non-cooperation. In other words, the odds of victim non-cooperation were significantly increased if

- more than one offender was involved in the incident,
- the incident involved only one victim,
- the incident occurred in a place other than a residence,
- the incident did not involve a nonpersonal weapon such as a gun, knife, or club,
- the offender was an adult,
- the offender was female,
- the victim was not injured,
- the victim was male,
- the victim was an adult,

- the assault was not a sexual assault,
- the incident involved a single offense, and
- the victim was an intimate partner

6.6.1 Extralegal factors

The logistic regression analysis found that type of victim significantly affected the likelihood of victim non-cooperation in incidents involving domestic violence (Table 31). Specifically, if the victim was an intimate, the odds of non-cooperation increased supporting the first hypothesis:

- *When an incident of domestic violence involves a victim who is an intimate partner (as opposed to a spouse), the odds of a victim not cooperating with police at the scene of the crime will increase.*

If the victim was an intimate partner, the odds of victim noncooperation increased 14.2% (compared with the odds if the victim was a family victim).

Table 31 Results of Logistic Regression To Predict Non-cooperation by Type of Victim						
Offense Characteristics	All Victims (n = 233,063)	Family (n = 146,830)		Intimate (n = 86,233)		
	% Non-cooperation	Odds Ratio	% Non-cooperation	Odds Ratio	% Non-cooperation	Odds Ratio
Number of offenders		1.787***		2.059***		1.315***
One (0)	10.1		9.3		11.4	
More than one (1)	13.0		13.8		11.7	
Number of victims		0.635***		0.631***		
One (0)	10.6		10.0		11.7	
More than one (1)	9.8		9.5		10.3	
Location of incident		1.086***		1.025 ns		1.133***

Residence (0)	10.3		9.8		11.1
Nonresidence (1)	11.5		10.4		12.6
Most serious weapon		0.812***		0.799***	0.836***
Personal (0)	10.7		10.2		11.7
Non-Personnel (1)	8.6		8.2		9.5
Offender age		1.277***		1.359***	0.818**
Under age 18 (0)	8.3		7.8		14.5
Adult (1)	10.7		10.2		11.4
Offender sex		1.044*		1.066**	1.262**
	10.3		9.6		11.4
Female (1)	11.0		10.8		11.5
Victim injured?		0.432***		0.430***	0.432***
No (0)	14.2		13.2		16.1
Yes (1)	7.0		6.5		7.7
Victim sex		0.947**		0.901***	1.229**
Male (0)	10.7		10.4		11.3
Female (1)	10.4		9.7		11.5
Victim age		1.413***		1.559***	1.069 ns
Under age 18 (0)	7.4		6.6		12.1
Adult (1)	10.9		10.5		11.4
Sexual Assault?		0.875**		0.782***	1.121 ns
No (0)	10.5		10.0		11.4
Yes (1)	9.0		7.2		15.6
Number of offenses		0.726***		0.620***	0.798***
One (0)	10.5		10.0		11.5
More than one (1)	8.5		6.8		9.9
Victim/offender		1.142***			

relationship	
Family(0)	9.9
Intimate (1)	11.4
* $p \leq 0.05$	
** $p \leq 0.01$	
*** $p \leq 0.001$	
ns = not significant	

While the logistic regression analysis found a significant difference in the likelihood of victim noncooperation when the predictor was the sex of the victim, the results were mixed. The second hypothesis in this study stated:

- *When an incident of domestic violence involves a female victim, the odds of a victim not cooperating with police will increase.*

The analysis revealed that, in general, the odds of a victim not cooperating with police at the scene of an incident involving domestic violence increased 5.6% if the victim was a male. However, while the odds of non-cooperation increased 11.0% for family victims when the victim was male, for intimates the odds of non-cooperation increased 22.9% if the victim was female.

The NIBRS data offered no evidence to support the hypothesis that

- *When an incident involves a **weapon**, the odds of a victim not cooperating with police at the scene of the crime will increase.*

In fact, the absence of a nonpersonal weapon, such as a firearm or a knife, significantly increased the odds of victim non-cooperation. Overall, compared with incidents involving a nonpersonal weapon, the odds of a victim not cooperating increased 23.2% when there was no weapon involved other than personal (hands, feet, etc.) in the incident; when controlling for type of victim, odds of noncooperation increased 25.2% among family victims and 19.6% among victims defined as intimate partners.

These data also offered no evidence to support the hypothesis that:

- *When an incident of domestic violence involves **injury** to the victim, the odds of a victim not cooperating with police at the scene of the crime will increase.*

In this sample, when an incident of domestic violence involved no injury to the victim, the odds of a victim not cooperating with police more than doubled. This was the case for both family victims and intimates.

There was no evidence to support that:

- *When an incident of domestic violence involves a sexual assault, the odds of a victim not cooperating with police will increase.*

Overall, the odds of victim non-cooperation decreased significantly (14.3%) if the nature of the domestic assault was a sexual assault. However, this differed by type of victim. Among victims defined as family, the odds significantly decreased (27.9%). But if the victim was an intimate rather than a family victim, the assault being a sexual assault, although not significantly correlated with the probability of non-cooperation, increased the odds (12.1%).

There was evidence in support of the hypothesis that:

- *When an incident of domestic violence involves a juvenile victim, the odds of a victim not cooperating with police will decrease.*

In fact, among all victims in this sample, the odds of a victim not cooperating were significantly lower (41.3%) if the victim was under the age of 18. When controlling for type of victim, the odds of noncooperation when the victim was a juvenile decreased much more among victims defined as family members (55.9%). When the victim was an intimate rather than a family victim, victim age was not significantly correlated with the probability of non-cooperation.

There was also evidence in this sample to support the hypothesis that:

- *When an incident of domestic violence involves more than one victim, the odds of a victim not cooperating with police will decrease.*

Among all victims in this sample, the odds of a victim not cooperating were significantly lower when there were multiple victims involved in an incident of domestic violence(57.4%); this held true even when controlling for victim type (58.5% for family victims, 44.7% for intimates).

6.6.2 Controlling for arrest policy

When controlling for the type of arrest policy, the odds of victim non-cooperation varied among the three general groupings of arrest policy (discretionary, preferred, and mandatory). The final hypothesis was:

- *When controlling for the type of arrest policy (mandatory, preferred, or discretionary), the odds of a victim not cooperating with police will increase with the restrictiveness of the dominant arrest policy.*

The first five hypotheses in this study were related to an increase in the odds of victim non cooperation. They were as follows:

H1: When an incident of domestic violence involves a victim who is an intimate partner (as opposed to a spouse), the odds of a victim not cooperating with police at the scene of the crime will increase.

H2: When an incident of domestic violence involves a female victim, the odds of a victim not cooperating with police will increase.

H3: When an incident involves a **weapon**, the odds of a victim not cooperating with police at the scene of the crime will increase.

H4: When an incident of domestic violence involves **injury** to the victim, the odds of a victim not cooperating with police at the scene of the crime will increase.

H5: When an incident of domestic violence involves a sexual assault, the odds of a victim not cooperating with police will increase.

There was evidence when controlling for type of arrest policy, the odds of noncooperation increased with the restrictiveness of the policy when an incident of domestic violence involved a victim who is an intimate partner (as opposed to a spouse or family member). The odds of a victim who was an intimate partner not cooperating with police at the scene of the crime increased 6.6% compared with a family victim when the dominant arrest was a discretionary arrest policy (the least restrictive), 16.1% when the arrest policy was a preferred arrest policy, and 21.6% when the dominant policy was the most restrictive, a mandatory arrest policy (Table 32).

Table 32 Results of Logistic Regression To Predict Non-cooperation by Type of Arrest Policy						
All Victims Offense Characteristics	Discretionary (n = 37,218)		Preferred (n = 45,703)		Mandatory (n = 119,188)	
	Percent Non-	Odds Ratio	Percent Non-	Odds Ratio	Percent Non-	Odds Ratio
Number of offenders		2.005***		2.088***		1.513***

One (0)	15.3%		7.0%		10.5%	
More than one (1)	22.1		11.6		11.2	
Number of victims		0.631***		0.764***		0.595***
One (0)	16.2		7.4		11.1	
More than one (1)	16.1		7.8		9.0	
Location of incident		0.907*		1.129***		1.144***
Residence (0)	16.3		7.3		10.4	
(1)	15.3		8.6		12.1	
Most serious weapon		0.541***		0.612***		1.149***
Personal (0)	17.0		7.9		10.5	
Non-Personnel (1)	9.9		4.8		11.5	
Offender age		1.125*				
Under age 18 (0)	14.6		4.3		8.8	
	16.3		7.8		10.8	
Offender sex		1.074 ns		1.054 ns		1.017 ns
Male (0)	15.5		7.3		10.6	
Female (1)	18.2		7.8		10.7	
Victim injured?		0.388***		0.522***		0.405***
No (0)	22.2		9.6		14.5	
Yes (1)	10.7		5.5		6.8	
Victim sex		0.866***		0.975 ns		0.968 ns
Male (0)	17.6		7.5		10.5	
Female (1)	15.6		7.4		10.7	
Victim age				1.459***		1.388***
Under age 18 (0)	10.7		5.2		7.7	

Adult (1)	17.0		7.7		11.0	
Sexual Assault?				1.245*		0.946 ns
No (0)	16.4		7.4		10.6	
Yes (1)	8.3		7.9		10.0	
Number of offenses		0.610***		1.063 ns		0.628***
One (0)	16.3		7.4		10.8	
More than one (1)	12.1		8.3		7.6	
Victim/offender relationship		1.066*		1.161***		1.216***
	15.6		6.8		9.9	
Intimate (1)	17.2		8.4		11.9	
* p ≤ 0.05 ** p ≤ 0.01 *** p ≤ 0.001 ns = not significant						

There was also evidence when controlling for type of arrest policy, the odds of noncooperation increased, albeit slightly, with the restrictiveness of the policy when an incident of domestic violence involved a female victim.

The odds of a victim not cooperating with police in incidents of domestic violence that involved a weapon other than body parts increased as the restrictiveness of the arrest policy increased. The odds were significantly greater for a personal weapon for the two least restrictive arrest protocols (84.8% for the discretionary group and 63.4% for the preferred policy group); as the odds decreased for a personal weapon being involved the odds increased for a non-personal weapon being involved. For the mandatory arrest policy group (the most restrictive), the odds of a victim not cooperating with police were significantly higher (14.9%) when an incident

involved a non personal weapon compared with incidents in which only a personal weapon was involved.

The results were mixed when an incident of domestic violence involved injury to the victim. The odds of a victim not cooperating with police were significantly higher under all three arrest policies when there was no victim injury reported (157% for discretionary, 91.6% for preferred, and 147% for mandatory). However, the odds of victim noncooperation when there was no injury were highest when the policy was a preferred arrest policy, which was neither the most nor the least restrictive policy.

A similar pattern held true for incidents of domestic violence that involved sexual assault. When the dominant arrest policy was discretionary, the odds of a victim not cooperating with police were significantly higher (119.3%) when the incident did not involve a sexual assault compared with incidents that did. Under the preferred arrest policy, the odds of victim noncooperation were significantly higher (24.5%) if the incident did involve a sexual assault; under the mandatory arrest policy, the odds were nearly even .

6.6.2.1 Family victims

Among incidents involving family victims, there was evidence when controlling for type of arrest policy, the odds of noncooperation were significantly correlated with the incident of domestic violence involving a male victim. For the discretionary policy group, the odds of victim noncooperation were 18.5% higher for incidents involving male victims, for the preferred policy grouping, the odds of noncooperation were 11% higher for incidents involving a male victim, and for the mandatory policy group, the odds of victim noncooperation were 9% higher for incidents involving a male victim. While the odds did not increase with the restrictiveness of the arrest policy, the results were significant regardless of the arrest policy.

Among family victims, there was also evidence, when controlling for type of arrest policy, the odds of noncooperation increased with the restrictiveness of the policy when an incident of domestic violence involved a nonpersonal weapon (knife, gun, club). Among these victims, the odds of noncooperation increased with the restrictiveness of the arrest policy when an incident of domestic violence involved a nonpersonal weapon. The odds of victim noncooperation were significantly greater for a personal weapon under the two less restrictive arrest protocols, with higher odds under the least restrictive discretionary policy (103%) than under the preferred policy (55.0%); therefore, the odds of victim noncooperation when a nonpersonal weapon was involved in the incident were higher in the more restrictive policy of the two. For the mandatory arrest policy group, the most restrictive, the odds of a victim not cooperating with police were significantly higher (11.1%) when an incident involved a weapon compared with incidents in which no weapon was involved.

Among family victims, the results are mixed when an incident of domestic violence involved injury to the victim. The odds of a victim not cooperating with police were significantly higher for all three arrest policy groups when there was no victim injury reported. (152.5% for discretionary, 90.5% for preferred, and 155.1% for mandatory). However, the odds of victim noncooperation when there was no injury was lowest for the preferred arrest policy group, which was neither the most nor the least restrictive arrest policy.

Table 33 Results of Logistic Regression To Predict Non-cooperation by Type of Arrest Policy - Family Victims						
Offense Characteristics	Discretionary (n = 24,159)		Preferred (n = 45,703)		Mandatory (n = 76,968)	
	% Non-cooperation	Odds Ratio	% Non-cooperation	Odds Ratio	% Non-cooperation	Odds Ratio
Number of						

offenders		2.390***		2.710***		1.642***
One (0)	14.4		6.1		9.7	
(1)	23.3		13.2		11.5	
Number of victims		0.593***		0.750***		0.617***
One (0)	15.6		6.6		10.3	
(1)	15.5		7.5		8.9	
Location of incident		0.875*		1.162**		1.041 ns
Residence (0)	15.8		6.6		9.9	
Nonresidence (1)	14.2		8.0		10.5	
Most serious weapon		0.492***		0.645***		1.111**
Personal (0)	16.5		7.2		9.8	
Non-Personnel (1)	9.0		4.7		10.6	
Offender age		1.161**		1.934***		1.304***
Under age 18 (0)	14.1		3.9		8.2	
Adult (1)	15.8		7.3		10.2	
Offender sex		1.082 ns		1.118*		1.032 ns
Male (0)	14.9		6.5		9.8	
Female (1)	17.6		7.7		10.4	
Victim injured?		0.396***		0.525***		0.392***
No (0)	21.0		8.6		13.4	
Yes (1)	10.5		5.0		6.1	
Victim sex		0.844***		0.901*		0.919**
Male (0)	17.0		7.3		10.2	
Female (1)	14.9		6.6		9.8	
Victim age		1.531***		1.653***		1.575***
Under age 18 (0)	10.0		4.5		6.7	
Adult (1)	16.8		7.3		10.5	
Sexual Assault??		0.365***		1.207 ns		0.864 ns
No (0)	15.9		6.8		10.0	
Yes (1)	6.5		6.5		7.9	
Number of offenses		0.470***		1.136 ns		0.523***
One (0)	15.8		6.8		10.1	

More than one (1)	9.3	7.6	5.9
* $p \leq 0.05$ ** $p \leq 0.01$ *** $p \leq 0.001$ ns = not significant			

Results were also mixed among victims who are defined as family for incidents of domestic violence that involved sexual assault. When the dominant arrest policy was discretionary, the odds of a victim not cooperating with police were significantly higher (174.0%) when the incident did not involve a sexual assault. For the preferred arrest policy group, the odds of victim noncooperation were higher (20.7%) if the incident did involve a sexual assault, but were not significantly correlated with victim noncooperation. Within the mandatory arrest policy group, the odds of victim noncooperation were also not significantly correlated with the odds of victim noncooperation; the odds of noncooperation were 15.7% higher for incidents that did not involve a sexual assault compared with those that did.

6.6.2.2 Intimate victims

Among victims who were intimates, there was evidence when controlling for type of arrest policy, the odds of noncooperation increased with the restrictiveness of the policy when an incident of domestic violence involved a female victim (Table 34). Within the discretionary policy group, the odds of a victim not cooperating with police were nearly equal for male and female victims; the odds increased 6.8% if the victim was a male and victim sex was not significantly correlated with the odds of victim noncooperation. Within the preferred arrest policy group, which is more restrictive than the discretionary policy, the odds of a victim not cooperating with police increased 28.2% if the victim was a female compared with if the victim was a male. Although victim sex was not significantly correlated with victim cooperation under

the preferred arrest policy, the odds of victim cooperation favored a female victim. Within the mandatory arrest policy group, the most restrictive policy, victim sex was significantly correlated with victim noncooperation with female victims being 41.9% more likely not to cooperate with police than males.

Among intimate victims, the results were mixed when comparing the odds of noncooperation with the restrictiveness of the arrest policy when an incident of domestic violence involved a nonpersonal weapon (gun, club, knife) with incidents that involved only personal weapons (hands, fist, feet). The odds were significantly greater for a personal weapon under the two least restrictive arrest protocols (55.5% for the discretionary policy group and 73.6% for the preferred policy group). However, within the mandatory arrest policy grouping, the odds of a victim not cooperating with police were significantly higher (21.4%) when an incident involved a non personal weapon compared with incidents in which a personal weapon was involved.

Among victims who were intimates, there was no evidence to support that, when controlling for type of arrest policy, the odds of noncooperation increased with the restrictiveness of the policy when an incident of domestic violence involved injury to the victim. In fact, among intimate victims, when an incident of domestic violence involved injury to the victim, the odds of a victim not cooperating with police were significantly higher for all three arrest policy groups when there was no victim injury reported. The odds of victim noncooperation when there was no injury were highest when the arrest policy was discretionary, followed by mandatory, and were lowest when the arrest policy was a preferred arrest policy.

There was no evidence to support that, among victims who were intimates, when controlling for type of arrest policy, the odds of noncooperation increased with the restrictiveness

of the policy when an incident of domestic violence involved a sexual assault. Among intimate victims, the odds of a victim not cooperating with police were significantly higher (38.8%) under the preferred arrest policy when the incident involved a sexual assault. The odds of victim noncooperation were not significantly correlated with an incident involving a sexual assault under either the discretionary or the mandatory arrest policy.

Table 34 Results of Logistic Regression To Predict Non-cooperation by Type of Arrest Policy - Intimate Victims						
Offense Characteristics (n = 13,059)	Discretionary (n = 13,059)		Preferred (n = 30,954)		Mandatory (n = 42,220)	
	% Non-cooperation	Odds Ratio	% Non-cooperation	Odds Ratio	% Non-cooperation	Odds Ratio
Number of offenders		1.372***		1.295**		1.267***
One (0)	16.8		8.3		12.1	
More than one (1)	20.0		9.3		10.6	
Number of victims		0.756**		0.867 ns		0.579***
One (0)	17.1		8.4		12.4	
More than one (1)	17.6		8.4		9.4	
Location of incident		0.935 ns		1.083 ns		1.239***
Residence (0)	17.4		8.3		11.3	
Nonresidence (1)	16.5		9.0		13.9	
Most serious weapon		0.643***		0.576***		1.214***
Personal (0)	17.8		9.0		11.7	
Non-Personnel (1)	11.8		5.1		13.2	
Offender age		0.756 ns		1.002 ns		0.781*
Under age 18 (0)	21.1		9.1		16.1	
Adult (1)	17.1		8.4		11.8	
Offender sex		1.125 ns		1.227 ns		1.394**
Male (0)	16.6		8.5		12.0	

Female (1)	19.4		8.1		11.5	
Victim injured?		0.370***		0.516***		0.422***
No (0)	24.4		11.4		16.7	
Yes (1)	10.9		6.1		7.9	
Victim sex		0.936 ns		1.282 ns		1.419**
Male (0)	19.2		7.8		11.1	
Female (1)	16.6		8.5		12.1	
Victim age		1.387**		1.111 ns		0.954 ns
Under age 18 (0)	14.1		8.9		13.7	
Adult (1)	17.4		8.4		11.8	
Sexual Assault??		0.800 ns		1.388*		1.133 ns
No (0)	17.2		8.3		11.8	
Yes (1)	15.4		13.2		17.4	
Number of offenses		0.705***		1.006 ns		0.714***
One (0)	17.4		8.4		12.1	
More than one (1)	14.2		8.7		9.2	
<p>* $p \leq 0.05$ ** $p \leq 0.01$ *** $p \leq 0.001$ ns = not significant</p>						

7.0 IMPLICATIONS AND SUGGESTIONS FOR FURTHER RESEARCH

This dissertation research focused on how incident characteristics of domestic violence incidents cleared using exceptional means due to the unwillingness of the victim to cooperate with police predicted the likelihood of victim noncooperation in such incidents in general, as well as when controlling for each general type of domestic assault arrest policy (mandatory, preferred, discretionary).

Drawing from the domestic violence literature both from the family and feminist perspectives and a retaliation theoretical framework (Sherman 1992), the analyses were structured on the premise that certain incident characteristics substantially affect the likelihood that a victim would refuse to cooperate with police in incidents involving domestic violence and that these would differ by victim's relationship to the offender (family vs. intimate) before as well as after controlling for the type of overarching domestic violence arrest policy.

The clearest and most far-reaching finding of this study was that the victim's relationship to the offender played a central role in determining the likelihood of victim non-cooperation with police in incidents of domestic violence. Regardless of the overarching arrest policy, the odds of a victim not cooperating with police increased significantly if the victim was an intimate partner as opposed to a family member. Additionally this study demonstrated that the odds of an intimate victim not cooperating with police increased with the restrictiveness of the arrest policy. Regardless of arrest policy, among intimate victims the absence of injury, an indicator of simple

assault, was significantly correlated with the likelihood that a victim would not cooperate with police.

In general, regardless of arrest policy, factors associated with victim vulnerability, such as the victim being a juvenile or female were not significantly correlated with the likelihood of victim noncooperation. In fact, in contrast to their intimate counterparts, among family victims, the victim being male significantly increased the odds of noncooperation, regardless of the arrest policy.

Also unlike intimate victims, under all three types of arrest policies for family victims the odds of victim noncooperation were significantly increased when the victim was an adult rather than a juvenile. Among intimate victims, offender age was only significantly correlated with the odds of victim noncooperation for the mandatory arrest policy where they were 28.0% higher if the offender was under the age of 18.

When considering factors associated with the seriousness of the incident, the results were mixed. For both types of victims, no injury to the victim was significantly correlated with an increased likelihood of victim noncooperation; this was the case for all types of arrest policy. For both types of victims, the presence of a weapon was only significantly correlated with increased odds of victim noncooperation for the mandatory arrest policy group.

7.1 THEORETICAL IMPLICATIONS

As stated in Chapter 1, for various reasons the interests of victims of domestic violence may be in direct contrast to the interests of the criminal justice system. For the victim, making sense of the situation involves understanding many different and interdependent factors that must

be integrated with the specifics and timing of the circumstances surrounding the incident (Weick 1995). Furthermore, applying Argyris and Schon's (1996) theories of action, the victim's espoused belief, that the police arresting the perpetrator is in the interest of protecting that victim, may not be reflected in the victim's behavior, refusing to cooperate with police in the arrest of their perpetrator. The espoused dimension corresponds to the sensemaking process, while the theory in use dimension corresponds to the decision-making process. When considering that a large part of the complexity involved with the victim's decision making environment is the intimate relationship between the victim and the perpetrator, this concept is especially important. While all victims of domestic violence face a dynamic situation that seems unpredictable, uncontrollable and that may present a threat to their safety, it appears that the decisionmaking process is different for intimate victims compared with family victims. Additionally, while all victims of domestic violence engage in making sense of the situation from his/her point of view, it seems that decisions about what actions to take in the interest of both present and future personal safety differ for intimate victims compared with family victims.

This study found that there is a difference between family victims and intimate victims in their decisions as to whether or not to cooperate with police (sign a complaint against their perpetrator) in incidents of domestic violence - intimate victims were more likely than family victims not to cooperate with police in the arrest of their perpetrator.

It appears that the public policy guiding the arrest protocol of law enforcement plays a part in the victim's decisionmaking in incidents of domestic violence. This study found that intimate victims were not only more likely than their family victim counterparts not to cooperate with police in the arrest of their assailant, but also that the more restrictive the arrest policy, the higher the odds of intimate victims being unwilling to cooperate. In other words, the less agency

the victim possessed legally in the arrest decision, the higher the odds that they would be unwilling to cooperate with police suggesting that intimate victims were more inclined to find an alternative way to take control of their situation other than having the perpetrator arrested.

This study also found that there appears to be a difference between male intimate victims and male family victims in how they make sense of their situations and the decisions that they make with regard to cooperating with police. Among family victims, the odds of a victim not cooperating with police was significantly higher for male victims regardless of the arrest policy. This was not the case among intimate victims where the only significant correlation with victim sex was for the mandatory arrest policy group where the odds were 41.9% higher for female victims.

7.2 POLICY IMPLICATIONS

The policy implications are particularly interesting when we consider the findings that intimate victims were more likely than family victims not to cooperate with police in the arrest of their perpetrator within the context of the legal implications of language as discussed in section 2.4. Specifically, the concept of separate realms being imbedded in the law and doctrines concerning the state's relationship to the family. As previously discussed, the family as a social unit has been constructed both socially and historically. When addressing domestic violence we must consider the historical public/private because it can be used to define the state's interventions into the private realm (Marshall, 1997). We must also consider the differences between domestic violence assaults as opposed to other types of assaults in light of the interdependence of the civil code definitions of the relationship between the victim and the

offender and the criminal code defining arrest protocol. In these types of incidents, a change in the civil code can affect how the criminal code is enforced in incidents of domestic violence.

The findings may have serious implications when we consider the current trend in using family values as a platform to promote legislative changes with the following three pieces of information simultaneously;

- the definition of simple assault,
- the changes implemented in arrest practices, specifically the application of common law rule, and
- the fact that criminal laws regarding domestic violence arrest generally rely on the definition of domestic relationship that is used in the states' civil law codes.

A simple assault incident is defined as having no injury or weapon involved and is typically characterized as a *misdemeanor*. In essence, the change in the common rule involves the exception made for cases involving *domestic* violence that allows a police officer to make an arrest for incidents involving a *misdemeanor* when it did not happen in the officer's presence (a warrantless arrest). The definition of *domestic* violence involves both the offense and the offender (what and who); while a state's *penal code* typically specifies the offenses that are considered to be *domestic violence*, the states' *civil law* codes generally specify the definition of a *domestic relationship*.

In this sample, victims who were intimates comprised more than one-third of the incidents contained that were classified as domestic assault incidents. The largest proportion of incidents involving domestic assault against intimates involved simple assault. Females made up the majority of the victims of all intimate domestic violence incidents and 80% of the intimate victims of domestic simple assault in this sample were female. In this sample, among incidents

involving "intimates", nearly three quarters involved a boyfriend assaulting a girlfriend. (Table 35).

Table 35 Domestic Assaults by Type of Incident and Victim Type					
Victims (%)					
Incident Type					
Family (n = 146,830)			Intimate (n = 86,233)		
Offender	Victim		Offender	Victim	
Husband	Wife	38.78%	Ex-husband	Ex-wife	4.73%
Wife	Husband	10.27%	Ex-wife	Ex-husband	1.53%
Parent	Child	12.99%	Boyfriend	Girlfriend	72.38%
Child	Parent	14.66%	Girlfriend	Boyfriend	17.79%
Sibling	Female victim	6.28%	Boyfriend/girlfriend	Partner's child	1.92%
Sibling	Male victim	5.22%	Homosexual partners		1.6%
Family member	Grandparent/grandchild	1.24%			
Family member	In-law	2.06%			
Family member	Other family member	8.51%			
Detail may not add up to 100% due to rounding					

7.2.1 Defense of Marriage Act

Since the passage of the federal law commonly known as the Defense of Marriage Act (DOMA), some states have approved anti-same-sex marriage constitutional amendments. The language in these amendments may be (and has been) used to argue that applying domestic violence laws to couples that are not in a civil relationship (legally married) are unconstitutional. This could have significant implications for a substantial proportion of victims of domestic violence, specifically females. The language used in many of these amendments provides wide discretion in interpreting their meanings. For example, Michigan's language, "To secure and preserve the benefits of marriage for our society and for future generations of children, the union of one man and one woman in marriage shall be the only agreement recognized as a marriage or

similar union for any purpose."¹ prohibits legal recognition of relationships that constitute a similar union, while the Utah language prohibits legal recognition of relationships that constitute domestic status or union. In Kentucky the language reads, "Only a marriage between one man and one woman shall be valid or recognized as a marriage in Kentucky. A legal status identical or substantially similar to that of marriage for unmarried individuals shall not be valid or recognized." denying legal status to relationships that are identical or substantially similar to that of marriage.² In North Dakota, "Marriage consists only of the legal union between a man and a woman. No other domestic union, however denominated, may be recognized as a marriage or given the same or substantially equivalent legal effect".³ In Arkansas the language prohibits legal status to relationships identical or substantially similar to marital status. Specifically,

Section 1. Marriage.

Marriage consists only of the union of one man and one woman.

Section 2. Marital status.

Legal status for unmarried persons which is identical or substantially similar to marital status shall not be valid or recognized in Arkansas, except that the legislature may recognize a common law marriage from another state between a man and a woman.

Section 3. Capacity, rights, obligations, privileges, and immunities.

The legislature has the power to determine the capacity of persons to marry, subject to this amendment, and the legal rights, obligations, privileges, and immunities of marriage.⁴

Other states with marriage amendments include Alabama, Alaska, Georgia, Kansas, Louisiana, Mississippi, Missouri, Montana, Nebraska, Nevada, North Dakota, Ohio, Oklahoma, Oregon, Texas, and Virginia. There are also states in which similar amendments are being

¹Michigan Constitution Article 1, § 25, (approved Nov. 2, 2004, Eff. Dec. 18, 2004)

² Approved by the electorate on November 2, 2004: An Act proposing an amendment of the Constitution of Kentucky by creating a Section 233A relating to marriage

³ Approved by the electorate on November 2, 2004

⁴ Arkansas Const. Amendment 83 (approved by the electorate on November 2, 2004)

considered. This list of states is not intended to be exhaustive but rather to highlight a trend among states in amending their state constitutions in order to define marriage.

7.2.1.1 The Ohio Example

Some states have interpreted their constitutional amendments to refuse more than marriage to same-sex couples. One example is the state of Ohio, whose constitutional amendment states

Only a union between one man and one woman may be a marriage valid in or recognized by this state and its political subdivisions. This state and its political subdivisions shall not create or recognize a legal status for relationships of unmarried individuals that intends to approximate the design, qualities, significance or effect of marriage.⁵

Furthermore, an Ohio statute states,

The recognition or extension by the state of the specific statutory benefits of a legal marriage to nonmarital relationships between persons of the same sex or different sexes is against the strong public policy of this state. Any public act, record, or judicial proceeding of this state, as defined in section 9.82 of the Revised Code, that extends the specific statutory benefits of legal marriage to nonmarital relationships between persons of the same sex or different sexes is void ab initio. Nothing in division (C)(3) of this section shall be construed to do either of the following:

- (a) Prohibit the extension of specific benefits otherwise enjoyed by all persons, married or unmarried, to nonmarital relationships between persons of the same sex or different sexes, including the extension of

⁵ Ohio Const. Art. XV, sec. 11 (approved by the electorate on November 2, 2004)

benefits conferred by any statute that is not expressly limited to married persons, which includes but is not limited to benefits available under Chapter 4117. of the Revised Code;

(b) Affect the validity of private agreements that are otherwise valid under the laws of this state.

(4) Any public act, record, or judicial proceeding of any other state, country, or other jurisdiction outside this state that extends the specific benefits of legal marriage to nonmarital relationships between persons of the same sex or different sexes shall be considered and treated in all respects as having no legal force or effect in this state and shall not be recognized by this state.⁶

The Ohio amendment essentially prohibits legal recognition of relationships that intend to approximate the design, qualities, significance or effect of marriage; while the statute defines persons who may marry; makes same sex marriages against public policy; and excludes recognition or extension of specific statutory benefits of legal marriage to nonmarital relationships.

The language in the Ohio constitutional amendment, which was ratified in December 2004, has already been used to make the case that domestic violence laws do not apply to opposite-sex unmarried couples by arguing that the amendment prohibits the state from creating or recognizing any "legal status" for unmarried individuals that imitates marriage. However, there is disagreement even among courts within the state as to whether or not the domestic violence laws apply to these individuals. Five state appellate courts that have considered challenges to the domestic violence law have found it constitutional despite the marriage amendment. Two district appellate courts have ruled the domestic violence statute unconstitutional as a result of the amendment.⁷

⁶ *Ohio Revised Code section 3101.01*

⁷ http://suealtmeyer.typepad.com/cleveland_law_library_web/domestic_relations/index.html

For Ohio in the 2003 NIBRS data, 26.3% of the victims in simple assault incidents involving domestic violence were intimates. Of the simple assault incidents involving victims who were intimates, 70.1% (n = 2,761) resulted in arrest compared to 55.8% (n = 5,067) of the simple assault incidents involving victims defined as acquaintances. Although Ohio was one of the states that was incomplete in reporting, these numbers represented a consensus for the reporting agencies contained in the file. The difference in the proportions of the numbers of simple assault incidents involving these two types of victims is indicative of law enforcement's implementation of mandatory arrest policies relevant to the exception made for cases involving domestic violence that allow a police officer to make an arrest for incidents involving a misdemeanor.

7.2.2 Potential for Unintended Consequences

If, in fact, a growing trend develops where language in state constitutional amendments is interpreted to deny legal recognition of a relationship as a domestic relationship could serve to exclude unmarried partners from the legal jurisdiction of domestic violence protections. When we put this all together, the initial end result could be a substantial number of victims, those defined in this study as "intimate partners", losing domestic violence protections and possibly motivating an already reluctant group of victims to become even more reluctant to cooperate with police or even to report the incident at all.

When changes in civil code language open the door to litigation concerning the legal status of unmarried couples with regard to the existing domestic violence statutes, it may have created a great deal of confusion for both victims and law enforcement. If there is confusion as to whether or not the victim is eligible for the protections provided by the domestic violence statutes, the victims may reason that the costs of the arrest process outweigh the potential benefit

of procuring consequences for their assailant's behavior, rendering these victims invisible to the “system”. Thus, the changes in civil code language will affect the victim’s decision making process, change the arrest decisions of police, and perhaps serve to hide the occurrence of domestic violence while making it appear that the problem is lessening.

On the whole, this study found that among domestic assault incidents cleared by using the exceptional means, "Victim refused to cooperate", victims who were acquaintances of their offender were the most likely not to cooperate, possibly a reflection of their not having the benefits of the legal domestic violence protections provided to "family" and "intimate" victims. Changes in the civil code defining who is eligible for these protections would essentially place many victims who are currently included in the legal definition of “domestic” partner into the acquaintance category. The data used in this study data provide an empirical picture of the numbers and proportions of victims that could be affected by such a change in legal status that would exclude them from the jurisdiction of domestic violence laws and the protections these laws provide.

Included in these protections are warrantless arrests in misdemeanor domestic violence cases subject to a police officer’s determination that domestic violence **may** have occurred. This exception, by definition, involves incidents that involve simple assault. While "intimates" were more likely than "family" victims to not cooperate with police, acquaintances appeared to be the most reluctant group of simple assault victims, having the highest proportion of victims refusing to cooperate with police (Table 6). If intimate victims, the highest proportion of which are female, were not under the statutory jurisdiction of domestic violence laws, then they would no longer be considered victims of domestic assault, but merely an assault victim that knew their offender. This would essentially place them in the acquaintance group. No matter what kind of

arrest policy existed in any particular state, a change in the definition of legal status in the civil code could exclude intimates from the domestic violence arrest policy provided by the exceptional protection of “common rule” for domestic incidents of domestic violence – that is, an arrest without a warrant when the incident involves a misdemeanor assault.

Denial of domestic violence protections other than those provided by arrest policies also has the potential to contribute to a victim's reluctance to cooperate with police in an incident involving aggravated assault, specifically with regard to victims in incidents that involve injury or a weapon. As discussed earlier, legislation in various states (Kentucky, Minnesota, Missouri, Nebraska, New Hampshire, New Mexico, North Carolina, Pennsylvania, Texas, and West Virginia) require arrest without a warrant if the victim has an order of protection on file (Table 3). Changing the definition of the legal status of intimate victims could prevent these victims from obtaining an order of protection. So, in addition to the loss of benefit from the aggressive arrest policies that can be applied in cases of domestic assault, "intimate" victims might also legislatively excluded from a wide range of domestic violence protections that may be mandated by the state's laws regarding domestic violence policy including obtaining a protection order and having an existing order of protection enforced. Knowing that these protective options would not be available to them could have an impact on these victims' decisions as to whether or not to cooperate with police in an incident involving an assault and perhaps whether or not to report the incident.

As in the case of aggravated assault, denial of domestic violence protections other than those provided by arrest policies also have the potential to contribute to a victim's reluctance to cooperate with police in an incident involving sexual assault. Some of these protections may include access to protective orders, temporary custody of children, access to temporary housing,

and warrantless arrest for a violation of a protective order. In some states, when law enforcement responds to domestic violence, arrangements are made for transportation to a safe place, requests are made for an emergency protective order for the victim, and victim services referral information is provided. When the legal status for relationships of unmarried persons is in question due to legislative language, the victims defined as "intimate" in this study could potentially lose the legal protection that they once had from the laws created to provide safety for them and their children.

All of the above may produce another unintended side effect - one that involves family victims. If a sizeable proportion of domestic violence victims suddenly become excluded from eligibility for the protections provided by domestic violence legislation, service providers may see a decrease in volume of clients referred for their services. This could translate into a decline in need for their services, not because victims do not exist, but because they are being legally excluded from eligibility. Fewer services needed might then translate into less funding or elimination altogether. Unfortunately, this situation could be fiscally attractive to decision makers looking for areas to trim budgets. Should the number of available support services decrease, it would mean that less protection is available for family victims as well. While family victims would continue to realize the benefits of aggressive arrest policies (arrest without a warrant in misdemeanor incidents) and civil orders of protection, the loss of available support services could very well render family victims unwilling to participate in the arrest process, creating a ripple effect and unraveling some of the progress that has been made for victims of domestic assault.

Additionally, the number of arrests is typically used to report crime statistics on various categories of criminal behavior that come to the attention of law enforcement; clearance by

exceptional means is typically not reported in detail and therefore an increase in the number of unwilling victims would not be immediately apparent in statistical reports such as *Crime in the United States* series. It may appear that the number of incidents of domestic violence are decreasing, when in reality there is an increase in the reluctance of intimate victims to cooperate with police or even to report the incident at all.

If we accept the premise that domestic violence is already underreported (Buzawa & Buzawa, 2003) and we determine that proportion of the domestic violence victims known to police for the reporting agencies is visibly less after the change in language, it could be that changes in the constitution and the legal exclusion of these victims from the protection of domestic violence legislation in a state is affecting how many of these incidents actually come to the attention of law enforcement.

7.3 FUTURE RESEARCH

Since these data (NIBRS 2003) were collected before Ohio's constitution was amended in 2004, we have the occurrence of a situation that could be used as a natural experiment. It will possible to examine future NIBRS data from the same set of reporting Ohio agencies contained in the 2003 data to compare the proportions of victims involving domestic violence coming to the attention of law enforcement as well as the proportions of these victims that refuse to cooperate with police in these incidents. While the NIBRS sample may not be representative for any meaningful between-state comparisons, relative patterns of proportional differences may be instructive as to how the new language did or did not affect the relative volume of reporting these incidents by victim type.

The analyses used in this dissertation could be replicated to investigate changes in the odds of victim noncooperation in the 2003 NIBRS data versus NIBRS data collected in years subsequent to the enactment of the constitutional amendment using the clearance year as an additional incident characteristic. This analysis could be done to investigate whether or not victim noncooperation became more likely and to examine how the predictors of noncooperation among victims may have changed following the passage of the marriage amendment and the ensuing litigation.

These data could be used at the local level to examine the same changes as mentioned above when a support service for domestic violence victims is either added or removed from a locale. The results of such analyses should be disseminated to all stakeholder organizations including, but not limited to, law enforcement, prosecutors, judges, and service providers to enhance their understanding of how such changes affect victim decision-making in reporting incidents of domestic violence as well as cooperating with police when the incident comes to the attention of law enforcement.

When we examine the descriptive statistics, it appears that victims of sexual assaults are very different from aggravated and simple assaults (Table 5). The proportions of sexual assaults cleared by "prosecution declined" among all types of victims is much higher than those for victims of both simple and aggravated assaults, and the proportions cleared by arrest are lower suggesting that these types of incidents are handled differently by the criminal justice system. These data could be used to examine whether certain extralegal factors in incidents of sexual assault predict the likelihood of the prosecution being declined and whether the type of prosecution policy has any influence on those factors.

Particularly interesting was the finding that males were significantly more likely not to cooperate with police among family victims but not among intimate victims. There is some attention paid to male victims in general being reluctant to report a domestic assault; most of the work has focused on this reluctance in the context of a differentiated police response to male victims (Buzawa & Buzawa, 2003). However, this study found a difference between male family victims and male intimate victims cooperating with police. Additionally, this study focused on victims' responses to police in terms of whether or not they cooperate in the arrest of their assailant not in terms of police responses to victims and whether or not an arrest was made. Future research is certainly warranted to investigate this finding.

These data have a great amount of potential to answer many previously unanswered questions and they are collected on a routine basis. More research is warranted. Hopefully this study has highlighted the utility of these data. They are publicly available and should not be limited to producing aggregated arrest statistics.

APPENDIX A

About the National Incident Based Reporting System (NIBRS)

The National Incident-Based Crime Reporting System (NIBRS) is a standardized Incident-Based Reporting (IBR) system. Law enforcement agencies that adopt NIBRS are able to enhance the system to accommodate their own local reporting requirements while meeting the reporting standards of NIBRS. The core elements of NIBRS are standardized across states and localities making large data sets available for analysis.

Incident-based reporting of criminal offenses or incidents is a data collection strategy that is distinctly different from the Federal Bureau of Investigation's (FBI) Uniform Crime Reporting (UCR) Program. The UCR program is a summary-based reporting program that local law enforcement agencies use to provide a monthly aggregated count of offenses and arrests for certain offense categories to their state UCR systems. The state systems, in turn, report these totals to the FBI.

In the newer IBR systems, law enforcement agencies maintain a database of the details of criminal incidents that are reported to them and report these details to their state UCR programs.

Law enforcement agencies using IBR are able to fulfill the summary reporting requirements of the FBI's UCR program by aggregating selected incident level data.

Users of NIBRS data must decide what the unit of analysis will be for a particular analysis to avoid obtaining flawed results by incorrectly specifying the unit of analysis. NIBRS contains data on many aspects of crime incidents, such as offenses, victims, offenders, and arrestees, that can be examined as different units of analysis. While this is a major benefit of the new reporting system, it is also a major complexity. The unit of analysis may correspond to any of the individual segment levels (offenses, property, victims, offenders, or arrestees), or it may be the crime incident itself.

NIBRS categorizes incident reports into Group "A" and Group "B" offenses. Because of the different natures of Group A and B offenses, fewer details are required for Group B Incident Reports. However, NIBRS collects extensive data on Group A offenses, which include the offenses being examined in this study (sexual assault, simple assault, and aggravated assault). Specific definitions of each offense category are included in the NIBRS codebook.

The NIBRS data file for Group "A" Incident Reports is a hierarchical file, that is, it is structured in levels. Manipulation of the file requires an understanding of the levels and how linkages can be followed. It is important to select the appropriate unit of analysis for research questions.

Each originating law enforcement agency submits multiple Group "A" Offense Incident Reports. Each report consists of multiple data segments. Data segments may consist of multiple records and each of these records comprises several data elements. Most of the data elements have single values, but there are some that have multiple valid values. Some of the data elements are required, but others are not.

A segment in NIBRS is a set of related data elements that describe an aspect of a reported crime incident. A complete Group "A" Offense Incident Report involves six data segments: administrative, offense, property, victim, offender, and arrestee. Each Group "A" Offense Incident Report includes the administrative, offense, victim, and offender data segments at the time the report was submitted. In NIBRS, incidents can be cleared by exceptional means which means that some element beyond law enforcement control prevents a physical arrest. Exceptional clearances can be made and are reported under one of the following five circumstances:

- 1) Death of the Offender
- 2) Prosecution Denied
- 3) Extradition Denied
- 4) Victim Refused to Cooperate
- 5) Juvenile/No Custody.

A single Group "A" Offense Incident Report consists of at least four and no more than six data segments, and may have multiple records in all of the segments except the administrative data segment.

The offense data segment can contain up to 10 types of offenses, each of which will trigger a separate offense segment record. The FBI's Uniform Crime Reporting hierarchy rule for selecting only the most serious offense in an incident for summary reporting is not used in NIBRS. Therefore, in multiple crime incidents all offenses (up to a maximum of the 10 most serious) are reported. Each type of offense is recorded once per incident regardless of the number of counts or perpetrators.

The victim data segment in a Group "A" Offense Incident Report can contain up to 999 records. Each record contains detailed information pertinent to each victim. Similarly, the offender segment can contain up to 99 unique offender records and the arrestee segment can have up to 99 unique arrestee records.

In one Group "A" Offense Incident Report, the originating law enforcement agency number (ORI) and the incident number link each data segment and its records to the other data segments and records of that incident report. Each record in each data segment contains the ORI number and the incident number so that the records can be linked at both the segment level and the incident report level.

In the victim segment, there is a direct link between the victim and the offense(s) in each victim record. Each victim is assigned a unique sequential number and each offense committed against that victim is identified by the offense code. There is also a direct link between the victim and the offender(s) in the victim segment. In a victim record, the offender sequence numbers are listed for each offender who offended that victim. For each victim/offender pairing, the relationship of the victim to the offender is captured in the victim segment.

There are some assumed links between data segments. For example, all offenders are considered to be responsible for all offenses in the incident. All offenses in an incident are assumed to have been committed on the same date, at the same time, and in the same location. An arrest clears an incident. Therefore, there is not a one-to-one relationship between arrests and offenses.

APPENDIX B

NIBRS STATUS REPORT (FROM THE FBI)

(October 2004)	Date NIBRS Testing Started	Based on 2003 submissions		Based on 2003 submissions
		Number of NIBRS Agencies	Percent of State Population Represented	Percent of State Crime Reported through NIBRS
Arkansas	12/94	145	54%	21%
Colorado	5/91	204	60%	47%
Connecticut	12/96	68	46%	29%
Delaware	6/91	68	100%	100%
Idaho	12/90	141	100%	100%
Iowa	5/91	248	100%	100%
Kansas	3/95	389	88%	67%
Kentucky ¹	6/97	21	5%	6%
Louisiana	5/95	13	5%	3%
Massachusetts	8/90	243	64%	47%
Michigan	2/94	772	86%	72%
Nebraska	5/91	84	31%	17%
New Hampshire	9/96	186	69%	54%
North Dakota	1/89	109	87%	76%
Ohio	12/92	273	52%	29%
South Carolina	11/89	466	100%	100%
South Dakota	7/95	123	56%	33%
Tennessee	11/93	565	100%	100%
Texas	7/92	76	12%	7%
Utah	5/90	86	78%	75%
Vermont	10/92	72	92%	90%
Virginia	10/92	431	100%	100%
West Virginia	7/94	487	100%	100%
Wisconsin ²	8/92			
Metro Transit Police Department (D. C.)	7/01	1	0%	0%

20% OF US POPULATION COVERED BY NIBRS REPORTING

16% OF CRIME REPORTED VIA NIBRS

31% OF LAW ENFORCEMENT AGENCIES REPORTING NIBRS

¹ Kentucky is not NIBRS-certified, but agency data are individually accepted by the FBI.

² Wisconsin was certified in August 1997. Have not received production data from them to date.

Note: Counts are based on UCR participating agencies and their corresponding populations.

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